

**EXHIBIT F TO THE DECLARATION OF
PATRICK M. RYAN IN SUPPORT OF CISCO'S
OPPOSITION TO COUNTERDEFENDANTS'
MOTION TO STAY COUNTERCLAIMS**

ORIGINALLY FILED UNDER SEAL

**PUBLIC VERSION FILED PURSUANT TO COURT
ORDER OF FEBRUARY 23, 2011
(DOCKET ENTRY #281)**

Gray Deposition Transcript, Vol. 1, pp. 1-89

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MULTIVEN, INC., a Delaware
Corporation,
Plaintiff,
v.

CERTIFIED COPY

CIVIL ACTION NO.
5:08-cv-05391 JW (HRL)
CISCO SYSTEMS, INC.,
a California Corporation,
Defendant.

ATTORNEY'S EYES ONLY

VIDEOTAPED DEPOSITION OF BASIL GRAY

THURSDAY, JUNE 17, 2010

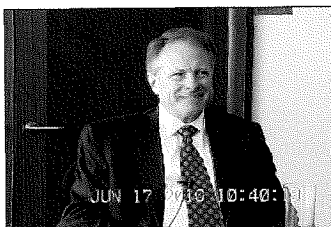
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8 Videotaped Deposition of BASIL GRAY, taken on
9 behalf of DEFENDANT, at the law offices of Winston &
10 Strawn, LLP, 1700 K Street, N.W., Suite 1200,
11 Washington, D.C. commencing at 10:05 A.M., THURSDAY,
12 JUNE 17, 2010, before Ronald E. Bennett, Certified
13 Shorthand Reporter, pursuant to Notice of Videotaped
14 Deposition.
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10 ALSO PRESENT: Jack Sherman, Videographer

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QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:

PAGE LINE

None.

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EXHIBITS

BASIL GRAY

NUMBER	DESCRIPTION	PAGE
(None.)		

1 THURSDAY, JUNE 17, 2010; 10:05 A.M.

2
3 VIDEO OPERATOR: Good morning.

07:12:58 4 Here begins Tape Number 1 in the deposition
10:05:18 5 of Basil Gray in the matter of Multiven, Incorporated
10:05:21 6 versus Cisco Systems, Incorporated, in the United
10:05:23 7 States District Court for Columbia, Case Number
10:05:27 8 508CV05391JWHRL.

10:05:36 9 Today's date is June 17, 2010. The time
10:05:39 10 on the video monitor is 10:05 a.m. The video
10:05:44 11 operator today is John Sherman, Behmke Reporting and
10:05:46 12 Video Services, 160 Spear Street, Suite 300, San
10:05:52 13 Francisco, California.

10:05:54 14 This video deposition is taking place at
10:05:57 15 1700 K Street, N.W., Washington, D.C., and was
10:06:02 16 noticed by Patrick M. Ryan of Winston & Strawn, LLP.

10:06:06 17 Counsel, please identify yourselves and
10:06:08 18 whom you represent.

10:06:09 19 MR. RYAN: Patrick Ryan for Cisco.

10:06:14 20 MR. POTEPAN: Jay Potepan for Multiven and Peter
10:06:17 21 Adekeye.

10:06:18 22 MR. BIAL: Joseph Bial of Cadwalader, Wickersham &
10:06:20 23 Taft for Plaintiff, Multiven, Inc. And joining me
10:06:24 24 today is my colleague Justin Brenner.

10:06:28 1 VIDEO OPERATOR: The court reporter is Ron
10:06:28 2 Bennett, Certified Shorthand Reporter, Behmke Reporting
10:06:28 3 & Video Services.

10:06:28 4 Would the court reporter please swear in the
10:06:28 5 witness.

10:06:28 6
10:06:28 7 BASIL GRAY,
10:06:28 8 having been first duly sworn, testified as follows:

10:06:28 9 THE WITNESS: Yes.

10:06:42 10 EXAMINATION

10:06:51 11 BY MR. RYAN:

10:06:53 12 Q. Good morning.

10:06:54 13 A. Good morning.

10:06:55 14 Q. Please state your name for the record.

10:06:56 15 A. It is Basil Gray.

10:07:00 16 Q. My name is Patrick Ryan. I represent Cisco
10:07:03 17 in this action, which is the Multiven and Sysco
10:07:07 18 lawsuit. Before we get into the heart of the
10:07:10 19 deposition, I'll ask you a few background questions and
10:07:12 20 cover some basic deposition ground rules.

10:07:15 21 The deposition is a question and answer
10:07:17 22 session. I want to be sure that you're cognizant of
10:07:20 23 all your rights and responsibilities related to a
10:07:23 24 deposition.

10:07:23 25 This case may go to trial. Your

10:07:26 1 testimony is under oath. It has the same force and
10:07:28 2 effect as if we were at trial and it can be used to
10:07:31 3 impeach you at trial; do you understand?

10:07:34 4 A. I do.

10:07:35 5 Q. Because we have discussed it here today, it
10:07:36 6 will be clear to the jurors, and for the judge, that
10:07:39 7 you have had a complete understanding of the process.
10:07:41 8 Do you understand?

10:07:42 9 A. So far, yes.

10:07:44 10 Q. Thank you. Please answer audibly for the
10:07:47 11 court reporter. Because the court report can't pick up
10:07:49 12 gestures. Okay?

10:07:51 13 A. Okay.

10:07:52 14 Q. If you don't understand the question, be sure
10:07:54 15 to tell me. If you answer, I'll assume you understood
10:07:56 16 the question. Do you understand?

10:07:58 17 A. Yes.

10:07:59 18 Q. If you need to take a break, just let me
10:08:01 19 know. And if a question isn't pending, we'll let you
10:08:04 20 take a break. The most important thing is the answer
10:08:07 21 to the best of your ability.

10:08:09 22 You'll be given the opportunity to
10:08:11 23 review the transcript and make comments and make
10:08:13 24 changes. But attorneys will be given a chance to
10:08:14 25 comment on the changes at trial, which could prove

10:08:16 1 embarrassing. Thus, it's very important that you be as
10:08:20 2 accurate and truthful as possible today. Do you
10:08:24 3 understand?

10:08:25 4 A. Yes.

10:08:27 5 Q. I'll be asking some questions that may seem
10:08:28 6 racy, but in the deposition setting they are routine.
10:08:32 7 In other words, if we were just having a beer, or we
10:08:35 8 were playing golf, I probably wouldn't ask you these
10:08:37 9 questions once we were real close friends.

10:08:37 10 Do you have any medical or physical
10:08:42 11 conditions that would prevent you from being able to
10:08:44 12 testify truthfully and accurately here today?

10:08:47 13 A. No.

10:08:47 14 Q. Are you taking any medication or under the
10:08:49 15 influence of any substances that might influence your
10:08:51 16 ability to testify truthfully and accurately today?

10:08:54 17 A. No.

10:08:55 18 Q. Have you had your deposition taken before?

10:08:56 19 A. No.

10:08:59 20 Q. Have you ever been a party in a lawsuit?

10:09:01 21 A. No.

10:09:03 22 Q. Have you been a witness in a court
10:09:05 23 proceeding?

10:09:05 24 A. No.

10:09:06 25 Q. You're a lucky man. I would like to get to

10:09:12 1 know you a little bit. Where did you grow up?

10:09:17 2 A. I was a Navy person, so I moved every couple
10:09:21 3 of years.

10:09:22 4 Q. So, your father was in the Navy?

10:09:25 5 A. Yes.

10:09:26 6 Q. Where did he serve?

10:09:30 7 A. San Diego, Washington, D.C., Massachusetts,
10:09:35 8 Norfolk, Virginia.

10:09:38 9 Q. What type of work did your father do in the
10:09:41 10 Navy?

10:09:41 11 A. He was a surface line officer.

10:09:44 12 Q. And what was the top rank he achieved?

10:09:47 13 A. Commander.

10:09:49 14 Q. And was your grandfather also in the
10:09:53 15 military?

10:09:54 16 A. No. Which grandfather?

10:09:58 17 Q. Your father's father.

10:10:00 18 A. No.

10:10:03 19 Q. Your grandfather isn't the Pershing art
10:10:06 20 expert, is he?

10:10:07 21 A. No.

10:10:07 22 Q. I did a Google search. Basil Gray is a
10:10:09 23 Pershing art expert. I thought that was really cool.

10:10:11 24 So, you followed in your father's
10:10:19 25 footsteps in the Navy, I think, is that right?

10:10:21 1 A. I did.

10:10:24 2 Q. So, where did you go to high school; where
10:10:29 3 were you living when you went to high school?

10:10:31 4 A. In Virginia Beach.

10:10:34 5 Q. And where did you go to college?

10:10:36 6 A. Jacksonville University.

10:10:39 7 Q. What year was that roughly?

10:10:41 8 A. I graduated in 1980.

10:10:43 9 Q. And what did you do next?

10:10:46 10 A. I was commissioned in the Navy.

10:10:48 11 Q. So, were you in officer candidate school in
10:10:51 12 college or how did you get into the Navy?

10:10:54 13 A. On Navy ROTC scholarship.

10:11:00 14 Q. And so, what rank did you go into the --

10:11:04 15 A. I was commissioned as an ensign.

10:11:08 16 Q. What was your first job in the Navy?

10:11:13 17 A. I went back to school for, learned to be a
10:11:16 18 supply officer.

10:11:18 19 Q. If you could just describe in a nutshell your
10:11:22 20 career in the Navy I would appreciate it.

10:11:27 21 A. I did 27 years in the Navy as a supply
10:11:30 22 officer, various tours, three ships. Was stationed
10:11:37 23 overseas twice, had two commanding officer jobs. Was
10:11:40 24 commanding officer in charge of logistics throughout
10:11:43 25 all SBEATS Asia, in Singapore at the Naval Regional

10:11:47 1 Contracting Center. I was a commanding officer of
10:11:50 2 Defense Contract Management Command at Lockheed-Martin
10:11:53 3 Sanders up in Nashua, New Hampshire.

10:11:56 4 I was an assignment officer that
10:11:58 5 assigned officers for their next duty assignments. I
10:12:01 6 was on the Joint Staff in the Pentagon. I was on the
10:12:07 7 Secretary of the Navy staff. That covers most of the
10:12:15 8 of the jobs.

10:12:17 9 Q. Sounds like a very exciting career.

10:12:19 10 A. It was an honor to serve.

10:12:21 11 Q. What was the top rank that you achieved?

10:12:24 12 A. I retired as a captain.

10:12:26 13 Q. Thank you, very much for your service. So,
10:12:30 14 at some point were you hoping to achieve flag rank or
10:12:36 15 was that --

10:12:37 16 A. That was never a desire.

10:12:43 17 Q. So, in those jobs, in your various role as
10:12:49 18 supply officer under your commands, did you get
10:12:52 19 involved in acquiring networking equipment for the
10:12:59 20 military?

10:13:00 21 A. No.

10:13:00 22 Q. Did you get involved in acquiring
10:13:04 23 communications equipment?

10:13:09 24 A. I was the head of contracts at the Space and
10:13:13 25 Naval Warfare Systems Command.

10:13:13 1 Q. That's in San Diego?

10:13:15 2 A. That's in San Diego. They are responsible
10:13:17 3 for acquiring command control and communications
10:13:19 4 equipment. I oversaw the buyers that did that, but I
10:13:23 5 was not directly involved in any of the decisions on
10:13:27 6 the acquisitions that came to play.

10:13:29 7 Q. So, when you say acquiring control and
10:13:35 8 communications equipment, what does that encompass?
10:13:37 9 Just give me an idea.

10:13:43 10 A. Command control and communications equipment.
10:13:46 11 It's used through the military.

10:13:48 12 Q. So, for example, if you have a Special Forces
10:13:54 13 units that is in Iraq and need to communicate with one
10:13:57 14 another, and they use various equipment to communicate
10:14:00 15 on the ground, whether it be amongst one another or to
10:14:05 16 bring in air support, would that be the kind of
10:14:08 17 equipment that would be purchased?

10:14:09 18 A. Could be.

10:14:11 19 Q. Can you give me some other kind of specific
10:14:13 20 examples of how that equipment might be used in the
10:14:15 21 military?

10:14:17 22 A. Communicating from ship-to-ship, ship-to-air.
10:14:25 23 Communicating for managing systems on the ships, like
10:14:30 24 your disbursing systems or your supply systems to play.

10:14:40 25 Q. So, would you view the quality and

10:14:44 1 reliability of that equipment to be vital to the proper
10:14:47 2 function of the military?

10:14:48 3 A. Yes.

10:14:50 4 Q. If that equipment fails, people can die,
10:14:55 5 correct?

10:14:54 6 A. Yes.

10:15:05 7 Q. So, what was the first thing you did after
10:15:08 8 you left the military?

10:15:13 9 A. I took a job with PRTM Management
10:15:17 10 Consultants.

10:15:18 11 Q. And what is PRTM?

10:15:20 12 A. It's an international management consulting
10:15:22 13 company.

10:15:23 14 Q. And what do you do for them?

10:15:28 15 A. I'm in their government public sector group.
10:15:32 16 I consult to aerospace and defense and DOD and public
10:15:37 17 sector organizations.

10:15:39 18 Q. Can you give kind of a day in the life
10:15:42 19 example of what you do?

10:15:48 20 A. Companies, organizations come to be our
10:15:50 21 company with a problem and we try and solve it.

10:15:54 22 Q. So, when you say a problem, you mean they
10:15:57 23 have got an issue with maybe the military or government
10:16:02 24 agency and they need help kind of navigating the
10:16:05 25 system, and you bring that expertise. Is that the kind

10:16:09 1 of thing you do?

10:16:10 2 A. Typically it's more of a operational strategy
10:16:13 3 type of issue and working with supply chain issues.

10:16:20 4 Q. Can you give me an -- I'm just trying to put
10:16:23 5 this in kind of concrete terms.

10:16:25 6 A. So, I have helped design an in end supply
10:16:27 7 chain architecture for the Department of Defense. So,
10:16:30 8 it allows us to track supplies across the different
10:16:34 9 organizations to try and streamline, save money,
10:16:38 10 improve efficiency, reduce the cycle time that it takes
10:16:42 11 to respond in order to improve the readiness and reduce
10:16:45 12 the cost of supporting our war fighters.

10:16:48 13 Q. So, you did that when you were in the private
10:16:49 14 sector?

10:16:51 15 A. I am in the private sector.

10:16:52 16 Q. Yes. What I mean, so you were hired by the
10:16:55 17 DOD to do that, your firm?

10:16:58 18 A. Yes.

10:16:59 19 Q. Okay. So, sometimes the government is your
10:17:01 20 client and sometimes the private sector is your client;
10:17:04 21 is that right?

10:17:04 22 A. Yes.

10:17:05 23 Q. Okay. I understand. That sounds like a
10:17:08 24 really exciting and important project.

10:17:11 25 A. I enjoy it.

10:17:13 1 Q. Are you still working in that project?

10:17:16 2 A. I am.

10:17:17 3 Q. Sounds like a project that could go on for
10:17:20 4 decades.

10:17:22 5 A. The nature of our company is that we don't
10:17:25 6 try and stick around. 85 percent of our work is in the
10:17:30 7 commercial sector. And that's about getting return on
10:17:33 8 investments, solving a problem and moving on.

10:17:36 9 Q. So, did your work save the military money?

10:17:42 10 A. Yes.

10:17:44 11 Q. How much would you say in round figures
10:17:46 12 roughly?

10:17:50 13 A. Hundreds of millions of dollars.

10:17:53 14 Q. Thank you. As a taxpayer, thank you, very
10:17:55 15 much.

10:17:56 16 So, tell me how you got involved in
10:18:08 17 Multiven?

10:18:09 18 A. I was referred by a gentleman that I met out
10:18:11 19 in Singapore. And Multiven interviewed me and asked if
10:18:19 20 I wanted to be on the board of directors.

10:18:21 21 Q. Was that Wes Olson?

10:18:23 22 A. It was.

10:18:24 23 Q. Approximately when did you meet Wes in
10:18:26 24 Singapore?

10:18:31 25 A. Probably in 2001.

10:18:34 1 Q. How did you come to meet Wes?

10:18:38 2 A. I was looking for ways to save the government
10:18:41 3 money in Singapore with improved log rec processes
10:18:48 4 where the ships request information and request
10:18:51 5 supplies and support services when they go into ships,
10:18:55 6 go into port. And so, I was looking for a way to
10:18:58 7 streamline that process. And Cisco has a consulting
10:19:04 8 group over there that was assisting with that, show us
10:19:08 9 what type of IT technology might be available.

10:19:12 10 Q. So, this was IT technology to facilitate
10:19:16 11 better communications between ship-to-shore or between
10:19:20 12 ships, or both?

10:19:21 13 A. Both.

10:19:23 14 Q. What type of communication equipment are we
10:19:26 15 talking about -- audio or video or --

10:19:30 16 A. No, it's primarily just data at the exchange.
10:19:40 17 You have a requisition for something and you have to
10:19:43 18 get it to the people that process that requisition and
10:19:46 19 to the suppliers. And then, the suppliers need to bill
10:19:51 20 for that. And then, they need to get paid for it. So,
10:19:54 21 all of that was manually done for the most part.

10:20:00 22 Q. Did something come of that relationship?

10:20:08 23 A. The relationship?

10:20:09 24 Q. With Cisco regarding this data stream
10:20:13 25 whatever?

10:20:14 1 A. No. Cisco provides that service free with
10:20:17 2 the idea that they will get business when you decide
10:20:21 3 how you are going to proceed.

10:20:24 4 Q. So, at some point did Cisco get business
10:20:27 5 after you decided how you were going to proceed?

10:20:29 6 A. Not that I know of. I don't know whether or
10:20:32 7 not the project continued after I left.

10:20:34 8 Q. Okay. Was there something about getting
10:20:38 9 better access to the port there as well that you were
10:20:41 10 involved in?

10:20:45 11 A. We built a new pier involved in Chi Nei Navy
10:20:49 12 base that allowed an aircraft carrier to go portside.

10:20:53 13 Q. That was a significant system --

10:20:55 14 A. Huge.

10:20:57 15 Q. So, were you heavily involved in that project
10:21:00 16 as well?

10:21:02 17 A. My folks were responsible for coordinating
10:21:04 18 that and overseeing that to make sure that it was on
10:21:09 19 track and scheduled. It was built by the local
10:21:12 20 government, but it was intended for our use.

10:21:18 21 Q. Very impressive project. Let's see -- so,
10:21:23 22 let's get back -- so, you meet Wes Olson. Does he talk
10:21:28 23 about Multiven then or did Multiven come about later?

10:21:33 24 A. Later.

10:21:34 25 Q. Did you stay in touch with Mr. Olson after

10:21:37 1 you first met him, become friends? Just give us a
10:21:41 2 brief summary.

10:21:45 3 A. Yeah, contact maybe a couple times a year,
10:21:50 4 just, hey, how you doing? What are you up to? He
10:21:56 5 moved back to the States. I moved to San Diego and he
10:22:03 6 went on to some other jobs. That was a casual contact.

10:22:10 7 Q. Christmas card friends?

10:22:12 8 A. Yes.

10:22:13 9 Q. So, when did Multiven first come in the
10:22:17 10 picture?

10:22:24 11 A. I'm thinking it was like 2005.

10:22:27 12 Q. So --

10:22:29 13 A. You probably know, but I don't. Off the top
10:22:33 14 of my head I'm not sure.

10:22:35 15 Q. Your best recollection is all we can ask for.
10:22:42 16 Maybe this will help. Were you still in the Navy when
10:22:46 17 you started talking with Multiven?

10:22:51 18 A. Yes.

10:22:52 19 Q. Do you recall how long you had to go before
10:22:56 20 retirement, when you first started talking with
10:22:59 21 Multiven?

10:23:01 22 A. It was probably a couple of years.

10:23:03 23 Q. Okay. You retired what year?

10:23:06 24 A. 2007.

10:23:07 25 Q. So, that's how you get to 2005 approximately.

10:23:12 1 So, tell us about your first contact
10:23:14 2 with Multiven itself. Did Mr. Olson call up and say,
10:23:18 3 hey, there is this company. I want to tell you about
10:23:21 4 it?

10:23:30 5 A. I don't remember specifically. I mean I know
10:23:33 6 for sure I got -- I got a call or an email asking if I
10:23:42 7 was interested and if I could fly out to Silicon Valley
10:23:46 8 for an interview.

10:23:49 9 Q. And you did?

10:23:49 10 A. I did.

10:23:53 11 Q. Tell us what you found interesting or
10:23:55 12 appealing about Multiven at first blush?

10:24:00 13 A. I knew I was going to be retiring. I have
10:24:04 14 always wanted to broaden my horizons and try and learn
10:24:07 15 new things. I didn't know what I wanted to do when I
10:24:12 16 retired. It seemed like a neat learning experience.

10:24:17 17 Q. Did the subject matter of the business
10:24:19 18 interest you or just the idea of being involved in a
10:24:23 19 text startup?

10:24:25 20 A. I think just the idea of being involved in a
10:24:27 21 startup.

10:24:30 22 Q. Tell us about what you remember about your
10:24:31 23 first meeting at Multiven.

10:24:36 24 A. For the interview?

10:24:37 25 Q. Yes.

10:24:41 1 A. Peter was very friendly, very personable.
10:24:50 2 The welcoming it was just a very pleasant discussion.

10:24:59 3 Q. When you say Peter, you are referring to
10:25:02 4 Peter Adekeye?

10:25:04 5 A. Yes.

10:25:04 6 Q. So, was it the typical interview, he asked
10:25:07 7 you a bunch of questions or was it more meet and greet
10:25:11 8 kind of thing?

10:25:18 9 A. It wasn't a, you know, sit down across the
10:25:21 10 table and go through a checklist. But it was an
10:25:25 11 interview all the same in terms of, I'm sure assessing
10:25:30 12 what type of demeanor I had, how I expressed myself,
10:25:35 13 trying to figure out whether or not, you know, we could
10:25:38 14 maybe work together.

10:25:41 15 Q. Did you find Mr. Adekeye to be persuasive?

10:25:51 16 A. I don't know that he was trying to persuade
10:25:54 17 me. I think it was, you know, a matter of here's an
10:25:59 18 opportunity and see if it works.

10:26:05 19 Q. So, did the two of you hit it off?

10:26:08 20 A. Yes.

10:26:10 21 Q. I take it he was favorably impressed with you
10:26:13 22 and your demeanor?

10:26:14 23 A. Apparently.

10:26:15 24 Q. And he wanted you to get involved?

10:26:17 25 A. Yes.

10:26:17 1 Q. So, what happened next with Multiven, as far
10:26:20 2 as you were concerned?

10:26:22 3 A. Well, I, still being on active duty, I needed
10:26:26 4 to make sure that there wasn't a conflict of interest
10:26:30 5 and how that would proceed. So, I checked with our
10:26:34 6 legal counsel to see if that was okay for me to do that
10:26:39 7 while I was on active duty.

10:26:41 8 Q. When you say our legal counsel, you are
10:26:44 9 referring to the Navy JAG?

10:26:45 10 A. Yes, Navy JAG.

10:26:49 11 Q. And did they come back and say, it's okay,
10:26:51 12 with conditions, or what did they say?

10:26:57 13 A. They came back basically saying that based on
10:27:00 14 the information that we know, this is good. If the
10:27:05 15 situation changes, you need to let us be aware of that.
10:27:09 16 So we make sure there are, no issues develop.

10:27:13 17 Q. When you say the situation, as it was at the
10:27:15 18 time, is that because at the time Multiven was not
10:27:18 19 bidding for government contracts?

10:27:22 20 A. That's part of it. And also because of the
10:27:25 21 position, I wasn't in a position to award companies or
10:27:28 22 make decisions on organizations for government
10:27:31 23 contracts.

10:27:35 24 Q. Is that because your job involved acquisition
10:27:40 25 of products and not service contracts?

10:27:44 1 A. Well, we look at the acquisition as service
10:27:48 2 or products. But at the time that I was in that job I
10:27:51 3 was not involved in acquiring or making decisions about
10:27:56 4 acquisitions.

10:27:58 5 Q. I see.

10:27:59 6 A. Procurements.

10:28:00 7 Q. So, at some point you had been involved in
10:28:02 8 procurements, but at this point in your career you were
10:28:04 9 no longer --

10:28:06 10 A. Correct.

10:28:06 11 Q. You just need to wait for me to finish the
10:28:08 12 question because it makes for -- his job harder.

10:28:11 13 A. Got it.

10:28:12 14 Q. I forgot to tell you that.

10:28:14 15 A. Okay.

10:28:17 16 Q. I always forget that.

10:28:24 17 So, they gave it a thumbs up and you
10:28:33 18 joined Multiven's board; is that right?

10:28:34 19 A. Yes.

10:28:36 20 Q. Was that in 2005 or sometime later?

10:28:41 21 A. I'm not really sure how long that process
10:28:43 22 took. It may have been early 2006. Might have been in
10:28:51 23 2005. I don't even know what time of year it was.

10:28:56 24 Q. So, when you first joined the board, were you
10:28:58 25 excited about the opportunity?

10:29:00 1 A. Yes.

10:29:02 2 Q. And why were you excited about the
10:29:04 3 opportunity?

10:29:06 4 A. It was a new experience, an opportunity to
10:29:08 5 learn something, an opportunity for me to see things on
10:29:12 6 another side other than the public sector.

10:29:16 7 Q. At some point did you become disillusioned
10:29:19 8 with Multiven?

10:29:23 9 A. Yes.

10:29:24 10 Q. Why?

10:29:30 11 A. I didn't feel like I was getting all the
10:29:33 12 information, and wasn't really sure what value or how I
10:29:38 13 was playing into the organization.

10:29:44 14 Q. When you say, not getting all the
10:29:47 15 information, tell me -- can you elaborate on that.
10:29:52 16 What do you mean?

10:29:52 17 A. Just I didn't know what was going on in the
10:29:55 18 organization. And so, I felt left out.

10:30:05 19 Q. Did you ask for information that you didn't
10:30:07 20 get?

10:30:07 21 A. Yes.

10:30:08 22 Q. Can you give me some examples?

10:30:10 23 A. Financial information.

10:30:13 24 Q. How often would you say you asked for
10:30:15 25 financial information and you didn't get it?

10:30:20 1 A. Half a dozen at least times.

10:30:25 2 Q. As a board member, who has a fiduciary
10:30:27 3 obligation to the company, did that disturb you?

10:30:32 4 A. Yes.

10:30:35 5 Q. Did you form an opinion as to why you thought
10:30:39 6 you weren't getting the financial information you were
10:30:41 7 asking for?

10:30:44 8 A. No.

10:30:51 9 Q. Did you ask why you weren't getting the
10:30:53 10 information you were seeking?

10:30:59 11 A. I don't recall.

10:31:04 12 Q. As part of your disillusion with Multiven,
10:31:11 13 did you become concerned that Multiven couldn't deliver
10:31:16 14 what it said it could deliver to its customers?

10:31:27 15 A. No. Although I never understood any of the
10:31:30 16 technical part of this.

10:31:34 17 Q. So, I think I have seen an email where you
10:31:43 18 asked Mr. Adekeye something to the effect of how can
10:31:46 19 this guy be saying we have 15,000 feet on the street,
10:31:54 20 you know; do you remember something like that?

10:31:57 21 A. That sounds familiar.

10:32:00 22 Q. And do you remember what his response was?

10:32:07 23 A. Not specifically, no.

10:32:12 24 Q. Did that representation bother you, that they
10:32:15 25 were making that representation?

10:32:34 1 A. You know, I don't know. If he had given me a
10:32:40 2 response to that, it may have eased any concerns that I
10:32:44 3 have about misidentifying or misinformation.

10:32:50 4 Q. So, let's talk about when you first
10:32:52 5 communicated your concern to him. At that point you
10:32:55 6 did have a concern that that might be misleading to
10:32:58 7 customers, correct?

10:32:59 8 A. Apparently.

10:32:59 9 Q. And you say apparently because --

10:33:03 10 A. I really don't recall the email. It sounds
10:33:06 11 familiar, but I don't have good specific information on
10:33:10 12 it.

10:33:11 13 Q. Are there any other examples that come to
10:33:14 14 mind where either you said to someone at Multiven or
10:33:19 15 you sent an email saying, can we really deliver on
10:33:23 16 that? Is that accurate? Do you remember any other
10:33:26 17 examples like that?

10:33:29 18 A. Not specific, but it wouldn't surprise me if
10:33:34 19 I did that.

10:33:35 20 Q. It wouldn't surprise you because?

10:33:41 21 A. Because I want to feel comfortable with
10:33:44 22 organizations and people that I'm involved in to make
10:33:49 23 sure, because it's my reputation on the line as well.

10:33:53 24 Q. So, I want to talk about what you understood
10:33:56 25 about what Multiven did, at least on a basic level. Or

10:34:01 1 at least purported to do.

10:34:06 2 Do you understand that Multiven
10:34:09 3 purported to be able to provide service to, among other
10:34:17 4 things, customers who had high-end Cisco networking
10:34:21 5 equipment?

10:34:23 6 A. Yes.

10:34:24 7 Q. And did you also understand that Cisco
10:34:31 8 networking equipment is used in critical applications
10:34:36 9 such as military and airports and --

10:34:40 10 A. Yes.

10:34:41 11 Q. And would you agree that it's crucial that
10:34:45 12 the -- that anyone providing consulting or servicing
10:34:52 13 such products be highly qualified to do that work?

10:35:01 14 A. Yes.

10:35:07 15 Q. At some point did you become concerned that
10:35:16 16 Multiven might not be able to deliver across the board
10:35:21 17 high-quality service to such networking equipment?

10:35:29 18 A. I don't think that was at the point where
10:35:32 19 there would be an issue. I felt like Peter had the
10:35:35 20 skills to be able to deliver. We didn't have the work
10:35:40 21 or the volume that he had to worry about whether or not
10:35:43 22 he had the surge capability to have enough people to be
10:35:46 23 able to respond to that.

10:35:47 24 Q. So, when you say the surge capability, you're
10:35:50 25 talking about Peter could scale out what his

10:35:53 1 capabilities were?

10:35:54 2 A. Correct.

10:35:56 3 Q. So, when you said, we didn't have the work or
10:36:02 4 the volume, tell us about that.

10:36:08 5 A. You know, as a start-up company, you start
10:36:12 6 with nothing. And so, you have to get the sales in
10:36:19 7 order to bring that. Cisco has a monopoly for the most
10:36:27 8 part on a lot of that and very, customers that
10:36:31 9 recognize that Cisco has a lot of power, and that is a
10:36:36 10 very cautious because of the criticality of those
10:36:39 11 systems.

10:36:39 12 Those are very difficult market to
10:36:42 13 enter for a new organization, a start-up company to
10:36:44 14 come in and try and offer some of these services.

10:36:50 15 MR. RYAN: Objection. Move to strike the
10:36:51 16 offering, the legal conclusion.

10:36:55 17 MR. BIAL: I oppose the objection for the record.

10:36:59 18 MR. RYAN: I have no doubt.

10:37:01 19 THE WITNESS: I'm sorry. What did I say
10:37:02 20 incorrectly?

10:37:03 21 MR. RYAN: It's okay. It's just lawyer talk.
10:37:06 22 Don't worry.

10:37:11 23 So, you said a number of things there. I
10:37:13 24 would like to follow up on. You said customers are
10:37:18 25 I think understandably very cautious about when they

10:37:22 1 are acquiring or doing business with a provider.

10:37:28 2 Tell us about that. Why are they so cautious?

10:37:31 3 A. Well, as you mentioned, these systems that
10:37:35 4 this equipment supports are critical pieces of
10:37:38 5 equipment that impacts the ability of a company to do
10:37:44 6 their job. So, they take a lot of -- there is a lot of
10:37:51 7 concern to make sure the systems are up and running and
10:37:54 8 capable of performing like they need them to in order
10:37:57 9 to provide the service they promise their customers.

10:38:00 10 BY MR. RYAN:

10:38:00 11 Q. Is it true, because these networking systems
10:38:04 12 are so critical to businesses and to the government,
10:38:06 13 whoever is using them, that they aren't going to want
10:38:12 14 to take a risk on someone or a business that might not
10:38:15 15 be able to deliver the high-quality service they need.
10:38:19 16 Is that correct?

10:38:21 17 A. I think as a business they evaluate the risk
10:38:24 18 associated with it versus the cost savings and the
10:38:27 19 opportunity that they have with that. That's part of
10:38:31 20 running a business is to determine the value
10:38:34 21 proposition.

10:38:36 22 Q. To your knowledge, did Multiven run into the
10:38:38 23 issue, when companies would do that risk analysis, the
10:38:44 24 risk benefit analysis, and that those businesses came
10:38:48 25 to the decision that the risks did not, the risks

10:38:57 1 outweighed the rewards of doing business with them?

10:39:00 2 A. Yes.

10:39:01 3 Q. Can you think of specific examples?

10:39:08 4 A. No, not off the top of my head. I don't know
10:39:12 5 of the companies.

10:39:13 6 Q. You remember occasions when Multiven would
10:39:17 7 try and attract a customer and the customer would say,
10:39:20 8 you know, it's just too risky for us to go with you.
10:39:24 9 You're an unproven commodity and we don't know that you
10:39:27 10 can deliver and protect our networks the way we need
10:39:30 11 them protected?

10:39:31 12 A. Yes.

10:39:36 13 Q. Putting on your objective hat, you know, not
10:39:38 14 an advocate for Multiven, did you understand where they
10:39:42 15 were coming from?

10:39:43 16 A. Yes.

10:39:58 17 Q. If you had been, let's say --

10:40:00 18 A. I have a question. You mentioned that I'm an
10:40:02 19 advocate for Multiven. Is that how I'm viewed?

10:40:09 20 Q. No. I was going back in time when you were
10:40:11 21 on the board, I'm assuming you were thinking as an
10:40:13 22 advocate for Multiven. I'm not trying to imply that
10:40:16 23 you are sitting here as an advocate for Multiven. If I
10:40:21 24 did imply that -- I mean I don't know.

10:40:23 25 A. I'm here to give honest testimony in terms of

10:40:26 1 what the courts need to make a decision.

10:40:29 2 Q. I understand. I appreciate it. I'm grateful
10:40:32 3 for your time.

10:40:41 4 During your time at Multiven, before you
10:40:43 5 left Multiven, would you say that issue that we just
10:40:45 6 talked about was the biggest hurdle facing Multiven
10:40:50 7 getting business?

10:40:51 8 A. Yes.

10:40:53 9 MR. BIAL: I object to the form of the question.

10:41:01 10 MR. RYAN: Court Reporter, when you review the
10:41:03 11 videotape, please make sure you listen carefully to the
10:41:07 12 audible because the answer came in before the
10:41:09 13 objection. And I want to make sure the record is
10:41:12 14 accurate.

10:41:15 15 MR. BIAL: Well, I -- just keep on.

10:41:24 16 BY MR. RYAN:

10:41:32 17 Q. I would like you to go back to your days when
10:41:35 18 you were in charge of procuring equipment. And let's
10:41:41 19 say your tasked with acquiring the communications for
10:41:48 20 the Special Forces in the Iraqi and Afghanistan wars.
10:41:55 21 And you are faced with going with a Cisco certified
10:42:05 22 partner for providing service to that equipment or
10:42:08 23 going with a business like Multiven.

10:42:19 24 Knowing what you know today about
10:42:23 25 Multiven, and based on all your experience in military,

10:42:26 1 can you think of any time when you would have selected
10:42:32 2 Multiven to support networking equipment used by
10:42:36 3 Special Forces in Iraqi and Afghanistan?

10:42:39 4 MR. POTEPAN: Objection. Form of the question.
10:42:40 5 Also incomplete.

10:42:44 6 BY MR. RYAN:

10:42:44 7 Q. You may answer.

10:42:47 8 A. I answer?

10:42:48 9 Q. Yes.

10:42:50 10 A. The way I would do an acquisition would be
10:42:52 11 based on what the requirements are stated in there.
10:42:54 12 For government contracts we have requirements to
10:43:01 13 support a small businesses and promote them and give
10:43:05 14 them an opportunity.

10:43:07 15 You specifically put in a requirement
10:43:08 16 to say that it was Cisco certified. If that was a
10:43:13 17 requirement in the acquisition, okay, then I would
10:43:16 18 have to look to see whether or not the companies that
10:43:20 19 were competed had Cisco certification before I can
10:43:23 20 make the award.

10:43:25 21 Q. And so, the answer to my question would be,
10:43:28 22 because Multiven never received any Cisco certification
10:43:33 23 that you know of, that you at no time under that fact
10:43:36 24 pattern would you have gone with Multiven; is that
10:43:39 25 correct?

10:43:39 1 A. If Cisco certification was in the
10:43:43 2 requirement, and one of the competitors did not have
10:43:46 3 the Cisco certification, they would be nonresponsive to
10:43:51 4 the solicitation and would probably not make an award
10:43:54 5 to them.

10:43:57 6 Q. So, when you are acquiring -- let's say when
10:44:00 7 you were acquiring products for uses like the ones we
10:44:05 8 are talking about, the Special Forces, is the ability
10:44:10 9 to deliver on the job high-quality service an important
10:44:18 10 criterion in deciding who to go with?

10:44:26 11 A. When we are delivering equipment to
10:44:28 12 Special -- repeat the question again.

10:44:30 13 Q. Acting as a procurement officer, acquiring
10:44:38 14 communications equipment for Special Forces in an
10:44:41 15 active war zone, is the ability to deliver on the
10:44:48 16 service of that equipment an important criterion in
10:44:51 17 deciding which company wins the bid?

10:44:59 18 A. Ideally we want to buy equipment that doesn't
10:45:01 19 need service. Because, when they are out there in the
10:45:07 20 field, you don't want defense scale. If part of this
10:45:09 21 is requiring a service, you obviously want it to be
10:45:12 22 rapid and reliable and responsive because people's
10:45:16 23 lives would be on the line.

10:45:18 24 Q. So, having said that, you wanted rapid,
10:45:26 25 responsive service, if something goes wrong, because

10:45:31 1 people's lives are on the line.

10:45:33 2 Was Multiven in your mind ever in a
10:45:41 3 position to compete for that kind of work even if Cisco
10:45:47 4 certification was not a requirement?

10:45:50 5 A. When I was associated with Multiven, our
10:45:52 6 target market was not the Special Forces, or DOD, or
10:45:56 7 critical systems like that. It was primarily business
10:46:00 8 organizations.

10:46:00 9 Q. I understand. I would still like you to
10:46:04 10 answer the question, assuming that they were going
10:46:06 11 after such business.

10:46:08 12 A. Okay. So, repeat the question again.

10:46:09 13 Q. Sure. So, having said that you wanted rapid
10:46:31 14 responsive of service in case something goes wrong
10:46:34 15 because people's lives are on the line; for example,
10:46:36 16 when you are dealing with Special Forces in a war zone,
10:46:39 17 was Multiven in your mind ever in a position to compete
10:46:42 18 for that kind of work even if Cisco certification was
10:46:47 19 not a requirement?

10:46:48 20 MR. BIAL: I'm going to object to the form of the
10:46:49 21 question. Also object that the word compete is vague.

10:46:55 22 MR. RYAN: You may answer.

10:46:58 23 THE WITNESS: Yeah, I mean it's very -- it's a
10:47:04 24 very difficult question to answer. Because there's a
10:47:08 25 whole huge set of scenarios. I'm picturing a Special

10:47:12 1 Forces guy in the middle of the jungle with a radio
10:47:16 2 that goes down and is Multiven going to parachute in
10:47:19 3 there and fix the radio for them? Probably not. I
10:47:22 4 don't see them ever being in the position to do that.

10:47:26 5 BY MR. RYAN:

10:47:41 6 Q. Do you know if, based on your experience, if
10:47:43 7 the government is allowed to specify that only Cisco
10:47:48 8 partners or certified partners can be vendors?

10:47:56 9 A. That could be a specific requirement on a
10:48:00 10 single acquisition.

10:48:01 11 Q. Have you heard of that as a specific
10:48:04 12 requirement?

10:48:05 13 A. I haven't been involved really in the
10:48:07 14 statement of work of the requirements of those to know
10:48:10 15 whether or not that is. I do know that we have similar
10:48:15 16 things where you are required to have to have a
10:48:20 17 specific knowledge or skill set in order to be able to
10:48:23 18 perform.

10:48:30 19 Q. Tutor me a little bit on the government
10:48:32 20 bidding process. Is the general rule that there's an
10:48:36 21 open bidding process, but the government is allowed to
10:48:41 22 layer exceptions on, if there are certain
10:48:44 23 justifications? Is that correct?

10:48:45 24 A. Sure.

10:48:47 25 Q. Can you think of the kind of justifications

10:48:49 1 that the government can use for layering on specific
10:48:52 2 requirements?

10:48:54 3 A. Compelling need, proprietary information,
10:49:02 4 existing presence, efficiencies that are gained from
10:49:07 5 using a certain organization because of its in the best
10:49:11 6 interest of the government.

10:49:12 7 Q. National security?

10:49:13 8 A. Absolutely. That's a good catch all.

10:49:21 9 Q. So, let's talk about networking equipment for
10:49:24 10 a moment, about how that might interplay into some of
10:49:30 11 those exceptions.

10:49:30 12 Is it important for the government to be
10:49:33 13 sure it's getting actually legitimate networking
10:49:37 14 equipment from the manufacturer and that it's not
10:49:39 15 acquiring counterfeit products or knock-off products
10:49:48 16 that may not be able to deliver what they think they
10:49:50 17 are buying?

10:49:51 18 A. Counterfeit products are a big issue for
10:49:56 19 companies nowadays and a lot of concern.

10:49:59 20 Q. Why are they a big concern?

10:50:02 21 A. You want to know what is going into them.
10:50:05 22 Pharmaceuticals, for instance, they are having issues
10:50:09 23 with counterfeit drugs coming across and that has an
10:50:12 24 impact on people's lives.

10:50:16 25 Q. So, looking at this networking equipment,

10:50:19 1 let's say you have got a router or a switch and it's
10:50:25 2 going into a nuclear powered submarine. And it turns
10:50:28 3 out it's a counterfeit product and it fails during an
10:50:31 4 exercise.

10:50:34 5 That's something that whoever is
10:50:35 6 acquiring the products is going to try very hard to
10:50:38 7 avoid, isn't that right?

10:50:39 8 A. Absolutely. There's sub-safe items if that's
10:50:49 9 a nature that has to meet certain specifications.

10:50:55 10 Q. I'm sorry. Explain that to me.

10:50:55 11 A. For submarines, as you mentioned, if it's
10:50:57 12 critical for the nature of the submarine there is a
10:50:59 13 term called sub-safe qualifications. And all that
10:51:03 14 means it has to meet certain specifications.

10:51:05 15 Q. So, for that particular thing there's
10:51:08 16 actually a specific kind of heightened requirement,
10:51:13 17 correct?

10:51:13 18 A. Correct.

10:51:30 19 Q. Did you ever receive or acquire any stock in
10:51:35 20 Multiven?

10:51:36 21 A. Yes.

10:51:36 22 Q. Can you give us kind of overview of the stock
10:51:39 23 you acquired?

10:51:41 24 A. It was part of my compensation. It was my
10:51:43 25 compensation for being on the board, was certain number

10:51:50 1 of shares of stock that were given over quarterly
10:51:56 2 increments.

10:51:58 3 Q. Did you ever receive any other compensation
10:52:00 4 besides stock?

10:52:01 5 A. No.

10:52:04 6 Q. Do you remember whether any valuations were
10:52:10 7 placed on the stock you received?

10:52:14 8 A. Well, at initial issue I think a penny a
10:52:18 9 share.

10:52:19 10 Q. Do you remember how many outstanding shares
10:52:21 11 there were?

10:52:22 12 A. No, I don't.

10:52:26 13 Q. Does 100,000 ring a bell?

10:52:30 14 A. I deal in hundred thousands all the time.
10:52:33 15 Might be. I mean it was a round number.

10:52:38 16 Q. So, did you ever discuss with anybody in
10:52:42 17 Multiven what the value of Multiven was?

10:52:45 18 A. Yes.

10:52:46 19 Q. Tell us about that.

10:52:51 20 A. Just trying to determine what the value of
10:52:53 21 the IP that had been established over the process while
10:52:58 22 we were there. Peter had had some software developed
10:53:03 23 and some capabilities. And looking at what that would
10:53:11 24 actually be worth.

10:53:19 25 Q. Did Mr. Adekeye ever say to you a specific

10:53:23 1 figure that he felt that Multiven was worth?

10:53:31 2 A. Yes, but I can't remember.

10:53:37 3 Q. Can't remember a ballpark?

10:53:40 4 A. This is a guess. I think ten million, maybe.

10:53:47 5 Q. Ten million. At the time when he told you
10:53:52 6 the number, whatever it was --

10:53:54 7 A. I really am not sure about that.

10:53:57 8 Q. At the time he told you what he thought the
10:54:00 9 valuation was, regardless of what the number was, did
10:54:05 10 you think that his valuation sounded reasonable?

10:54:11 11 A. I didn't know the market to really know.
10:54:16 12 From what I have seen with IT and start-up companies I
10:54:21 13 think a lot of them have unrealistic costs and values
10:54:27 14 associated with them. But they obviously have been
10:54:29 15 getting the money for them, as you see in Silicon
10:54:32 16 Valley and the IT startups.

10:54:38 17 Q. Did you ever loan money to Multiven?

10:54:40 18 A. Yes.

10:54:41 19 Q. How much?

10:54:42 20 A. \$1,000.

10:54:43 21 Q. When?

10:54:47 22 A. Don't know. Maybe 2007.

10:54:53 23 Q. Do you remember why you loaned Multiven
10:54:56 24 money?

10:54:57 25 A. They needed to pay the rent for the office

10:55:02 1 that they were using I believe.

10:55:04 2 Q. Do you remember which office that was, what
10:55:07 3 the location was, street?

10:55:09 4 A. No.

10:55:10 5 Q. And were you told that Multiven was in danger
10:55:16 6 of being evicted, if you didn't loan Multiven a \$1,000?

10:55:22 7 A. Not if I didn't loan them, but it was in
10:55:25 8 danger of being evicted, yes.

10:55:27 9 Q. So, if you loaned the \$1,000, correct?

10:55:35 10 A. Yes.

10:55:35 11 Q. Did that prevent them from being evicted?

10:55:39 12 A. My \$1,000 alone did not, but I think they
10:55:43 13 were able to stay there because somebody else put some
10:55:46 14 money in.

10:55:47 15 Q. Do you remember how much was put in besides
10:55:51 16 the \$1,000?

10:55:52 17 A. I don't.

10:55:56 18 Q. Did it trouble you that Multiven was in a
10:55:59 19 position that it might get evicted?

10:56:01 20 A. Yes.

10:56:04 21 Q. Why did it trouble you?

10:56:07 22 A. It's an indication of financial status of a
10:56:12 23 company.

10:56:15 24 Q. That it's precarious?

10:56:17 25 A. Yes.

10:56:25 1 Q. Did you have any difficulty getting repaid?

10:56:30 2 A. I was given stock in lieu of repayment.

10:56:36 3 Q. Is that what you were expecting to get or
10:56:39 4 were you expecting to actually to get the money back
10:56:42 5 when you made the loan?

10:56:51 6 A. I don't recall.

10:56:58 7 Q. When you made the decision to accept stock in
10:57:01 8 lieu of \$1,000, were you happy about that?

10:57:12 9 A. When I made the loan for \$1,000, I knew there
10:57:16 10 was a risk of losing that. At least I had something.

10:57:23 11 Q. Something is better than nothing?

10:57:26 12 A. Yes.

10:57:27 13 Q. Was Multiven borrowing money from other
10:57:38 14 people that you knew of besides yourself?

10:57:43 15 A. They were borrowing money from other people.

10:57:49 16 Q. By the way, what was the rate on that loan
10:57:55 17 that you made of \$1,000?

10:58:03 18 A. I don't recall.

10:58:10 19 Q. Could it have been 10 percent?

10:58:12 20 A. That rings a bell.

10:58:15 21 Q. Were you aware about the same time that
10:58:17 22 Multiven was also borrowing money at much higher rates?

10:58:24 23 A. That wouldn't surprise me.

10:58:26 24 Q. Why wouldn't it surprise you?

10:58:32 25 A. They need good collateral in order to get

10:58:35 1 good rates and start-up companies are going to have a
10:58:40 2 difficult time getting prime rates without something to
10:58:44 3 show for the money that somebody is going to loan them.

10:58:48 4 Q. Do you recall whether Multiven took out a
10:58:55 5 loan with an individual for a percentage in excess of
10:59:00 6 20 percent?

10:59:01 7 A. No.

10:59:04 8 Q. Would it surprise you to learn that Multiven
10:59:06 9 had done so?

10:59:07 10 A. No.

10:59:24 11 Q. What was the straw that broke the camel's
10:59:27 12 back that made you to decide to dissolve your
10:59:30 13 relationship with Multiven?

10:59:50 14 A. You know, the final determination was really
10:59:53 15 based on my time and effort and the value that I was
10:59:58 16 receiving from this. I had since retired. I was
11:00:03 17 working for a consulting company. I really had a much
11:00:07 18 better appreciation for the value of my time.

11:00:14 19 And so, I was looking at time
11:00:18 20 invested, where the opportunities were going, how
11:00:20 21 things were proceeding, and decided that it wasn't --
11:00:26 22 I wasn't getting the value or felt like I was adding
11:00:29 23 the value, so it was time to leave.

11:00:35 24 Q. You had a very distinguished career in the
11:00:36 25 military, very honorable career obviously. At some

11:00:43 1 point did you think that Multiven, at least your
11:00:47 2 association with Multiven, could possibly tarnish your
11:00:53 3 reputation? If so, did that play a role in your
11:00:56 4 decision to leave the board?

11:00:58 5 MR. BIAL: Objection as to form.

11:01:00 6 MR. RYAN: You may answer.

11:01:01 7 THE WITNESS: Yes.

11:01:01 8 BY MR. RYAN:

11:01:03 9 Q. Tell us about what you were thinking along
11:01:06 10 those lines?

11:01:11 11 A. I was seeing things where I was told things
11:01:13 12 and what I was told wasn't happening. Also, as I
11:01:20 13 mentioned, when I was asking for like financial
11:01:22 14 information and data, I wasn't getting it.

11:01:27 15 And even in the time when I loaned the
11:01:31 16 money, there was just a total different attitude and
11:01:36 17 an approach to me as merely -- I was feeling more
11:01:43 18 like a tool rather than a participant within the
11:01:47 19 company and that's when I started questioning my
11:01:51 20 value to the organization and my worth.

11:02:08 21 MR. RYAN: Let's take a short break.

11:02:10 22 (Discussion off the record.)

11:16:05 23 BY MR. RYAN:

11:16:12 24 Q. At some point -- I take it with your long
11:16:19 25 career in the military that you developed a lot of very

11:16:22 1 important contacts in and out of the government and in
11:16:26 2 the business world?

11:16:28 3 A. Yes.

11:16:29 4 Q. At some point did you attempt to use those
11:16:32 5 contacts to develop sales leads for Multiven?

11:16:36 6 A. No, not so much.

11:16:44 7 Q. Did you make any efforts to make contact with
11:16:46 8 Multiven with some of those contacts that you
11:16:48 9 developed?

11:16:51 10 A. Say that again.

11:16:52 11 Q. Did you make any efforts to make contacts for
11:16:56 12 Multiven with some of your contacts?

11:16:58 13 A. Yes.

11:16:58 14 Q. What was the purpose of that?

11:17:03 15 A. To -- couple of things; one is, they were
11:17:09 16 looking for other people to advise them. And I would
11:17:15 17 talk to people that I knew that I considered smart
11:17:20 18 about this type of business to get their opinion in
11:17:23 19 terms of whether or not it was relevant or not.

11:17:27 20 Q. When you say whether or not it was relevant
11:17:30 21 or not, what do you mean by that?

11:17:31 22 A. Whether or not it was a good business
11:17:34 23 proposition and what they thought about it.

11:17:36 24 Q. So, in other words, whether it was a viable
11:17:39 25 business idea?

11:17:40 1 A. Yes.

11:17:42 2 Q. Did you get some responses back that some of
11:17:44 3 the contacts didn't think it appeared to be a viable
11:17:48 4 business idea?

11:17:49 5 A. Yes.

11:17:52 6 Q. Who were some of those contacts that said
11:17:54 7 that?

11:17:55 8 A. I don't remember the names.

11:17:58 9 Q. But they were people that you trusted and
11:18:01 10 thought were smart about business; is that correct?

11:18:07 11 MR. BIAL: Object to form and smart, vague.

11:18:11 12 THE WITNESS: Yes.

11:18:12 13 BY MR. RYAN:

11:18:25 14 Q. Were you involved with any conversations with
11:18:29 15 potential investors in Multiven?

11:18:31 16 A. Yes.

11:18:32 17 Q. Do you remember any of those?

11:18:43 18 A. No, I can't remember the guy's name.

11:19:02 19 Q. Do you know who John Steadman is?

11:19:05 20 A. Yes.

11:19:06 21 Q. Who is he?

11:19:07 22 A. He's a retired admiral that I used to work
11:19:10 23 for.

11:19:10 24 Q. Is he someone you discussed Multiven with?

11:19:13 25 A. Yes.

11:19:14 1 Q. Do you remember what he had to say about
11:19:16 2 Multiven?

11:19:17 3 A. He knew a guy that was kind of a smart IT
11:19:22 4 person that could talk to, to get his ideas on that.

11:19:30 5 Q. Do you remember who that person was?

11:19:31 6 A. I don't remember his name.

11:19:32 7 Q. Did you actually talk to that person?

11:19:34 8 A. Yes.

11:19:34 9 Q. And do you remember what they said?

11:19:40 10 A. I ended up making an introduction with him
11:19:44 11 and Peter.

11:19:48 12 Q. Did something come of that introduction?

11:19:50 13 A. I don't think so.

11:19:58 14 Q. Did you ever have occasion to learn about any
11:20:04 15 immigration issues that Mr. Adekeye might have?

11:20:09 16 A. Yes.

11:20:10 17 Q. Tell us what you remember about that?

11:20:14 18 A. He was held up in London for some immigration
11:20:21 19 disputes.

11:20:24 20 Q. When you say, he was held up, you mean he
11:20:27 21 couldn't get back to the United States?

11:20:29 22 A. I think he was trying to return back to the
11:20:33 23 United States.

11:20:33 24 Q. Something to do with immigration was
11:20:36 25 preventing him from coming?

11:20:37 1 A. Yes.

11:20:38 2 Q. Do you know anything more about immigration
11:20:40 3 issues with respect to Mr. Adekeye?

11:20:42 4 A. No.

11:20:45 5 Q. When was the last time that you saw Mr.
11:20:47 6 Adekeye in the United States -- roughly?

11:20:57 7 A. Maybe in 2007.

11:21:03 8 Q. How often did you see Mr. Adekeye in person?

11:21:16 9 A. Four or five times.

11:21:18 10 Q. Did you typically communicate on the phone or
11:21:21 11 by email?

11:21:24 12 A. Email and Skype calls.

11:21:32 13 Q. Is Skype something you use regularly or is
11:21:34 14 that something Mr. Adekeye used regularly?

11:21:37 15 A. He introduced me to Skype.

11:21:40 16 Q. And based on your experience with him, is
11:21:44 17 Skype something that Mr. Adekeye, at least when you
11:21:47 18 knew him, used it regularly?

11:21:51 19 A. I don't know who else he used it with. We
11:21:54 20 used it for board meetings.

11:22:05 21 Q. I want you to exclude occasions when Multiven
11:22:09 22 lawyers were present or able to participate in a
11:22:14 23 conversation. Did you ever discuss with anyone the
11:22:24 24 lawsuit that Multiven brought against Cisco?

11:22:29 25 A. Yes.

11:22:31 1 Q. Tell us what you remember about those
11:22:33 2 discussions.

11:22:35 3 MR. BIAL: Object to any attorney privileged
11:22:40 4 communications this will touch upon. We'll let it
11:22:45 5 continue for a little bit here.

11:22:47 6 BY MR. RYAN:

11:22:47 7 Q. You may answer.

11:22:48 8 A. What prompted it was a, I got a phone call
11:22:51 9 from one of Cisco's attorneys, I don't remember the
11:22:56 10 name, telling me that there was a lawsuit between
11:22:59 11 Multiven and Cisco.

11:23:03 12 And I'm like -- news to me. And I
11:23:08 13 called Peter and I said, hey, you know, what is up
11:23:13 14 with this? I think it would have been just a common
11:23:17 15 courtesy to have given me a heads up rather than me
11:23:20 16 getting a blindside phone call from somebody on this.

11:23:25 17 Q. So, you were upset that you didn't know about
11:23:27 18 it from Peter; is that correct?

11:23:29 19 A. Yes.

11:23:31 20 Q. What else can you remember about that
11:23:33 21 conversation with Mr. Adekeye?

11:23:42 22 A. It wasn't much more. I mean -- he wanted to
11:23:52 23 know what I told the attorneys when I talked to them.
11:24:04 24 And I don't remember much more about the conversation.

11:24:08 25 Q. Did he describe the lawsuit or tell you

11:24:10 1 anything about the lawsuit?

11:24:15 2 A. He may have touched a little bit on it but --

11:24:23 3 Q. Did you have any additional conversations
11:24:24 4 with anybody from Multiven about the lawsuit other than
11:24:28 5 that conversation?

11:24:33 6 A. No. I'm sorry. Matt Goldberg had called me
11:24:38 7 and asked --

11:24:40 8 Q. He's a lawyer for Multiven, correct?

11:24:44 9 A. Well, he was. And then, he, now he actually
11:24:48 10 works for them as the head of the sales team or
11:24:54 11 something.

11:24:55 12 Q. So, in your mind he was in sales and not
11:24:59 13 acting as a lawyer?

11:25:00 14 A. Not acting as an attorney.

11:25:03 15 Q. So, you had a conversation with him that was
11:25:05 16 not a legal conversation, but something else about the
11:25:09 17 law suit; is that correct?

11:25:11 18 A. He wanted to know if I had any information --

11:25:12 19 MR. BIAL: Wait. I'm going to instruct the
11:25:14 20 witness here. The determination as to whether
11:25:16 21 something is attorney/client communications is not
11:25:20 22 adequate for Mr. --

11:25:23 23 MR. RYAN: I'll strike the question and ask some
11:25:25 24 foundational stuff so we can establish.

11:25:29 25 When was this conversation?

11:25:35 1 A. I'll be honest, I don't even remember how
11:25:37 2 long ago this lawsuit -- was it in 2008?

11:25:42 3 BY MR. RYAN:

11:25:42 4 Q. December 2008.

11:25:44 5 A. Okay.

11:25:45 6 Q. At the time of the conversation with
11:25:47 7 Mr. Goldberg, were you on the board of Multiven?

11:25:51 8 A. I don't think so.

11:25:58 9 Q. When you had the conversation with
11:26:00 10 Mr. Goldberg, was there anything that indicated that he
11:26:06 11 was acting as a lawyer for Multiven when he called you?

11:26:11 12 A. No.

11:26:12 13 Q. Okay. What did he say to you?

11:26:16 14 MR. BIAL: I'm going to object. Mr. Gray's
11:26:21 15 opinion as to what constitutes legal advice isn't going
11:26:24 16 to be determined by your assumption that it's not legal
11:26:29 17 advice.

11:26:30 18 So, I'm going to instruct the witness not --
11:26:32 19 he's not going to be able to answer questions unless
11:26:35 20 you develop additional foundation, which you can do.
11:26:38 21 But just to ask him what he told him is not
11:26:41 22 sufficient to establish that that's not
11:26:41 23 attorney-client privileged information.

11:26:44 24 BY MR. RYAN:

11:26:45 25 Q. Is Mr. Bial representing you today?

11:26:48 1 A. No.

11:26:48 2 MR. BIAL: He's a former employee, former board
11:26:50 3 member, high ranking at Multiven. And you're talking
11:26:54 4 about information from the general counsel,
11:26:56 5 conversations about him that could have touched upon
11:26:59 6 his relationship while he was a former board member at
11:27:02 7 Multiven.

11:27:04 8 Q. Let me ask him another question. During this
11:27:07 9 conversation, did you talk about things that happened
11:27:12 10 when you were a board member?

11:27:15 11 A. No.

11:27:17 12 Q. Please tell me what he said.

11:27:19 13 A. He just said he was going to be sending an
11:27:22 14 email, that there was a requirement to provide any
11:27:24 15 information that existed on Multiven for part of this
11:27:30 16 case. I said, hey, all the stuff I have is in my
11:27:34 17 Multiven email account.

11:27:42 18 Q. Have you had any discussions with anyone else
11:27:44 19 about the Multiven-Cisco lawsuit?

11:27:51 20 A. No.

11:27:54 21 Q. Have you ever been interviewed by someone
11:27:57 22 from Federal Law Enforcement about Multiven?

11:28:08 23 A. Yes. In general Federal Law Enforcement,
11:28:12 24 right, is Secret Service.

11:28:17 25 Q. Please tell us about that.

11:28:19 1 A. Received a phone call, a voice mail to
11:28:23 2 contact Secret Service regarding some investigation
11:28:30 3 done on Peter. And I think it is related to
11:28:38 4 information from, that Cisco had relayed or asked
11:28:41 5 about.

11:28:44 6 Q. Do you remember what you said to the Secret
11:28:46 7 Service agent?

11:28:56 8 A. No, I really didn't have much information to
11:29:00 9 share. They wanted to know where Peter might be
11:29:03 10 getting information from. And said, you know, I don't
11:29:08 11 know other than from the paint --

11:29:15 12 Q. Did you say anything like, I had become
11:29:24 13 suspicious that Multiven really wasn't a viable
11:29:27 14 business given the few employees and the amount of
11:29:31 15 capabilities that I had observed?

11:29:33 16 MR. BIAL: Object to form of the question.

11:29:37 17 BY MR. RYAN:

11:29:38 18 Q. You can answer.

11:29:44 19 A. I don't know that I said it like that. I
11:29:47 20 think I was wondering whether or not there was, you
11:29:50 21 know, it was going to make it.

11:29:54 22 Q. What do you mean by that?

11:29:55 23 A. Just because from what I had seen they
11:29:59 24 weren't making any sales. And you had to make sales in
11:30:04 25 order to maintain a business.

11:30:06 1 Q. Do you remember anything else you might have
11:30:08 2 said to the Secret Service agent?

11:30:11 3 A. No.

11:30:17 4 Q. When you left the Multiven board, did anyone
11:30:22 5 ask you to delete any information from your computer
11:30:28 6 about Multiven?

11:30:29 7 A. No.

11:30:42 8 Q. If while you were a member of the board of
11:30:45 9 Multiven you had learned that Mr. Adekeye had used a
11:30:52 10 Cisco employee password to access proprietary
11:30:56 11 information on Cisco's network and download software,
11:31:00 12 would you have resigned?

11:31:03 13 A. If I knew that to be a fact, yes.

11:31:11 14 Q. That's because you're an honorable person and
11:31:13 15 you wouldn't want to be associated with a business that
11:31:15 16 would do that sort of thing; is that right?

11:31:18 17 MR. BIAL: Object to the form of the question.

11:31:20 18 Q. You may answer.

11:31:20 19 A. My reputation is very important to me.

11:31:31 20 Q. I would like to go back to your days as a
11:31:35 21 procurement officer. When you were a procurement
11:31:41 22 officer, was one of your jobs to review contracts and
11:31:45 23 bid proposals for a variety of vendors?

11:31:48 24 A. No.

11:31:48 25 Q. So, what did you do as a procurement officer?

11:31:51 1 A. I managed those people that did that.

11:31:54 2 Q. Did you ever actually do the line work where
11:31:58 3 you reviewed the contracts?

11:32:00 4 A. Not typically, no.

11:32:03 5 Q. So, when you managed these folks, did you
11:32:08 6 develop an expertise about what went on with the work
11:32:11 7 so you could make sure they were doing their job
11:32:14 8 properly?

11:32:14 9 A. Yes.

11:32:16 10 Q. Tell us how you went about that.

11:32:22 11 A. Big on process improvements and weaning out
11:32:27 12 inefficiencies within processes. So, for instance, at
11:32:31 13 SPA war what I developed was a interactive flow chart
11:32:39 14 of the process for going through contracts that allowed
11:32:42 15 the contracting people to click on whatever they needed
11:32:47 16 and it would drill down and provide the information to
11:32:49 17 help them, make sure that they had the right formats,
11:32:53 18 the decision criteria that they would need and how it
11:32:56 19 actually played into the overall process.

11:32:58 20 Q. So, you had a strong overview and expertise
11:33:02 21 of kind of the whole process of procurement within the
11:33:06 22 military, correct?

11:33:11 23 A. Yes. I look at things, tend to be from a --
11:33:15 24 I'm a manager and a leader. I rely on the technicians
11:33:20 25 to give me the specifics on things to do. But I know

11:33:25 1 about the interrelationships and how to try and achieve
11:33:30 2 an objective.

11:33:35 3 Q. At some point you held the title of director
11:33:37 4 of contracts; is that right?

11:33:39 5 A. Correct.

11:33:40 6 Q. Tell us about what your day-to-day shop was
11:33:43 7 like, when you were director of contracts?

11:33:48 8 A. A lot of it was dealing with programs,
11:33:53 9 dealing with companies, trying to put together
11:33:58 10 acquisition strategies how to capitalize on the limited
11:34:03 11 resources we had to fulfill a mission. So, if we
11:34:07 12 didn't have enough contracting people, we had to find
11:34:09 13 ways to streamline the process.

11:34:16 14 We would deal with questions,
11:34:20 15 Congressional inquiries that would maybe come in.
11:34:22 16 And then, I deal with my department heads in terms of
11:34:29 17 how they were proceeding on the contract so they
11:34:32 18 needed to get awarded.

11:34:34 19 Q. In order to perform that role, you had to
11:34:35 20 have kind of a broad breadth of knowledge about the
11:34:38 21 entire procurement process from the top to bottom, sort
11:34:42 22 of an overview knowledge?

11:34:44 23 A. (Nods affirmatively.)

11:34:53 24 Q. Correct?

11:34:54 25 A. Correct. True.

11:35:01 1 Q. I had an ambiguous response on the
11:35:03 2 transcript. That's why I was making sure.

11:35:16 3 So, going back to your original, I think
11:35:19 4 you called it interview with Mr. Adekeye. Was anyone
11:35:22 5 else present at that meeting?

11:35:40 6 A. I don't think so.

11:35:42 7 Q. Who else that, was or is affiliated with
11:35:46 8 Multiven have you met with in person?

11:35:51 9 A. His wife, Dekka, Matt Goldberg, and Mark
11:36:07 10 Wippich. And then, I walked through the office and met
11:36:15 11 some of the admin staff through there, but I don't
11:36:19 12 recall their names.

11:36:20 13 Q. You're talking about the college interns?

11:36:27 14 A. Yes.

11:36:28 15 Q. Have you communicated with other people
11:36:30 16 associated with Multiven besides Mr. Adekeye using
11:36:33 17 Skype?

11:36:45 18 A. Matt Goldberg and Mark Wippich may have been
11:36:48 19 on -- Mark Wippich has been on some of the calls.

11:36:52 20 Q. Let's talk about these individuals. You
11:36:54 21 mentioned Mr. Adekeye's wife. Is that Dekka -- you
11:36:58 22 said?

11:36:59 23 A. Yes.

11:37:00 24 Q. What do you remember about her?

11:37:04 25 A. At the time when first met she was a student

11:37:14 1 and was kind of doing some marketing support work for
11:37:19 2 him part time. Then, I think when she graduated, she
11:37:24 3 came over and took over one of the departments, I guess
11:37:27 4 the marketing department, or something within the
11:37:30 5 company.

11:37:31 6 Q. At some point did you form an opinion
11:37:34 7 regarding her capabilities?

11:37:42 8 A. I questioned her capabilities, when Peter was
11:37:48 9 looking at putting her in as a position in the company.

11:37:52 10 Q. And why did you question her capabilities?

11:37:55 11 A. Because I hadn't seen a resume or didn't know
11:38:00 12 that much about what her skill level was and what she
11:38:03 13 was going to bring to the table. And naturally,
11:38:05 14 because there was a personal relationship in there, I
11:38:09 15 thought it was important to question him in terms of,
11:38:12 16 is this a smart business decision or is this a
11:38:17 17 relationship decision that is driving you to put her in
11:38:20 18 this position.

11:38:21 19 Q. You said she was a student, correct?

11:38:23 20 A. Yes.

11:38:24 21 Q. Was she a student at San Francisco State
11:38:26 22 University?

11:38:27 23 A. Maybe.

11:38:28 24 Q. Did Peter ever tell you that he had paid part
11:38:31 25 of her expenses using is Cisco credit card?

11:38:37 1 A. No.

11:38:39 2 Q. You mentioned that you walked through the
11:38:40 3 office at some point. Do you remember if that was the
11:38:43 4 office in Palo Alto or Red Stone City?

11:38:53 5 A. I went through definitely the one Red Stone
11:38:58 6 City, that was the last one that I went through.

11:39:03 7 Q. Did you go through the other office in Palo
11:39:05 8 Alto?

11:39:06 9 A. Yes.

11:39:07 10 Q. Can you describe the office in Palo Alto?

11:39:19 11 A. It was on the, maybe second or third floor.
11:39:22 12 It's kind of cubicles. I think it was right along on
11:39:30 13 the interstate there.

11:39:32 14 Q. Do you remember how many people were working
11:39:34 15 there?

11:39:36 16 A. Just a couple.

11:39:41 17 Q. Have you ever seen more than a couple people
11:39:44 18 working at Multiven?

11:39:49 19 A. No.

11:39:51 20 Q. Now, you mentioned Mark Wippich. Who is Mark
11:39:55 21 Wippich?

11:39:57 22 A. Mark was one of the investors. And then, he
11:40:03 23 was brought in to kind of lead the sales and try and
11:40:09 24 create sales for the company.

11:40:13 25 Q. You said he was an investor. Do you know how

11:40:16 1 much money he invested? Do you know whether he was a
11:40:24 2 large investor, small investor, what size investor?

11:40:29 3 A. You know, one of the things that I never had
11:40:33 4 visibility in is who all invested and how much they
11:40:38 5 invested in there. I'm sure he was much larger than
11:40:42 6 what I had invested of \$1,000.

11:40:46 7 Q. That was one of the issues you had, because
11:40:48 8 as a member of the board, you felt you should be
11:40:51 9 entitled to review that kind of information, correct?

11:40:53 10 A. Yes.

11:41:04 11 Q. Did you have any discussions with Mr. Wippich
11:41:07 12 about Multiven's business and its viability?

11:41:16 13 A. Yes.

11:41:17 14 Q. Tell us about what you remember.

11:41:22 15 A. I was wondering what was making it difficult
11:41:24 16 have to have sales, what he thought about the
11:41:29 17 technology and the value proposition of the company,
11:41:33 18 whether or not it was -- had an opportunity to make,
11:41:38 19 you know, he was out talking to potential customers.
11:41:41 20 He got to hear firsthand what was driving their
11:41:45 21 decisions.

11:41:46 22 Q. Do you remember what his response was?

11:41:47 23 A. Well, I think he believed in it or he
11:41:52 24 wouldn't have been involved. And he did make the
11:41:56 25 comment about, you know, it's difficult because all

11:42:00 1 these companies are uncomfortable trying something new.
11:42:10 2 They don't want to risk taking a chance.

11:42:14 3 Q. So, he said words to the effect, we are not
11:42:18 4 getting contracts to service the networking products
11:42:25 5 because the potential customers don't want to take a
11:42:27 6 risk on something new?

11:42:29 7 A. And they don't want to upset Cisco.

11:42:32 8 Q. So, the answer to my question is, yes, and
11:42:34 9 they don't want to upset Cisco, correct?

11:42:36 10 A. Yes.

11:42:47 11 Q. Do you remember a discussion with Peter about
11:42:50 12 whether Ms. Yussuf was going to be a president or vice
11:42:56 13 president?

11:42:56 14 A. No.

11:43:01 15 Q. Do you know whether Ms. Yussuf became
11:43:05 16 responsible for the financials at Multiven's employ?

11:43:14 17 A. I don't recall.

11:43:18 18 Q. Now, it was Mr. Olson that got you involved
11:43:24 19 with Multiven, right?

11:43:25 20 A. Yes.

11:43:25 21 Q. After you had your interview and you joined
11:43:28 22 the board, did you have much communication with Mr.
11:43:31 23 Olson after that?

11:43:32 24 A. I think I talked to him maybe once or twice
11:43:35 25 after that. Actually, maybe more than that. Half a

11:43:41 1 dozen times.

11:43:42 2 Q. Tell us what you remember about when those
11:43:44 3 conversations took place and what was said that you can
11:43:47 4 remember?

11:43:48 5 A. Well, I mean the initial conversations after
11:43:52 6 I joined the board, we just talked about, you know, the
11:43:56 7 opportunity, what was happening with the organization.
11:44:00 8 Then, as time progressed, he was expressing his
11:44:04 9 frustration with Peter.

11:44:07 10 He had invested some money in the
11:44:12 11 company, and the expiration date, or the due date for
11:44:19 12 these things to be repaid had expired, and he was
11:44:22 13 trying to get the money back and was having a
11:44:27 14 difficult time with that.

11:44:32 15 So, that's how it sort of progressed.
11:44:35 16 So, it went from supportive of Multiven to being
11:44:41 17 somewhat of a, very disappointed with the way he was
11:44:45 18 being treated and the way things were going.

11:44:50 19 Q. So, let's talk about the timeframe you would
11:44:57 20 have been visiting Multiven's offices. It was roughly
11:45:00 21 sometime in 2005 and when would have been probably the
11:45:05 22 last time you would have been in Multiven's offices?

11:45:09 23 A. Maybe 2007.

11:45:10 24 Q. During that period of time how many times
11:45:15 25 roughly would you say that you visited Multiven's

11:45:19 1 offices?

11:45:22 2 A. Two or three times total.

11:45:25 3 Q. Total?

11:45:25 4 A. Yes.

11:45:25 5 Q. So, on any of those occasions was Mr. Olson
11:45:31 6 at Multiven's office, when you visited between 2005 and
11:45:35 7 2007?

11:45:35 8 A. No. No, I don't think so. It's hard to
11:46:00 9 remember.

11:46:00 10 Q. What other discussions do you remember having
11:46:02 11 with Mr. Olson about Multiven after he became
11:46:05 12 disenchanted with Multiven?

11:46:15 13 A. I think he was more disenchanted with Peter
11:46:18 14 than he was with Multiven, although they are pretty
11:46:22 15 much one in the same.

11:46:27 16 Q. When you say they are pretty much one in the
11:46:29 17 same, are you referring to the fact that he controls
11:46:34 18 the company both from an ownership and a management
11:46:36 19 point of view?

11:46:38 20 A. Yes.

11:46:45 21 Q. Do you have any idea whether Mr. Adekeye's
11:46:50 22 money is segregated from the company's money?

11:46:54 23 MR. POTEPAN: Objection to form.

11:46:57 24 MR. RYAN: You may answer.

11:46:59 25 THE WITNESS: No.

11:47:00 1 BY MR. RYAN:

11:47:01 2 Q. At some point did you become concerned that
11:47:04 3 Mr. Adekeye might be just using Multiven as a personal
11:47:07 4 tool rather than as a viable business?

11:47:10 5 MR. BIAL: Objection to form. Object to the
11:47:12 6 personal tool as vague.

11:47:13 7 MR. RYAN: You may answer.

11:47:20 8 THE WITNESS: I was concerned about how Multiven
11:47:23 9 might be -- was being used and how it was developing.

11:47:40 10 BY MR. RYAN:

11:47:41 11 Q. Were there things that, as a member of the
11:47:45 12 board, that you had to approve?

11:47:53 13 A. Issue of stock to people. I think is
11:48:01 14 probably the only thing I remember voting on.

11:48:05 15 Q. Were there other members of the board, when
11:48:09 16 you were sitting on the board?

11:48:17 17 A. There was one guy that lasted maybe a week.
11:48:23 18 Jovae something -- and he got in an argument with Peter
11:48:30 19 and resigned.

11:48:31 20 Q. Do you know what the argument was about?

11:48:35 21 A. It was, I think it was in the technical realm
11:48:40 22 because, Jovae, however you say his name, was very
11:48:44 23 technically oriented in terms of networks and
11:48:47 24 information.

11:48:51 25 Q. You testified that you were concerned about

11:48:52 1 how Multiven was being used. Why were you concerned?

11:49:01 2 A. Well, because I didn't see it generating
11:49:04 3 income or getting sales. And then, it spun off another
11:49:12 4 company which seemed to be getting all the attention.

11:49:25 5 Q. Wouldn't you agree that corporations are
11:49:27 6 supposed to make profits for their shareholders?

11:49:30 7 A. Yes.

11:49:30 8 Q. That is supposed to be the goal?

11:49:32 9 A. Yes.

11:49:32 10 Q. Are there any other ways you were concerned
11:49:34 11 about the way Multiven was being used?

11:49:37 12 A. No.

11:49:51 13 Q. Have you heard anything about whether
11:49:56 14 Multiven might have illegally required software from
11:50:01 15 Cisco?

11:50:02 16 A. No.

11:50:05 17 Q. Have you heard anything about whether
11:50:09 18 Multiven might have acquired products in the secondary
11:50:17 19 markets that were formerly manufactured by Cisco that
11:50:21 20 might not be legitimate products?

11:50:25 21 A. No.

11:50:46 22 Q. You testified that Multiven had spun off a
11:50:50 23 company that was getting all the attention. You mean
11:50:53 24 that the spinoff company was getting all of Mr.
11:50:56 25 Adekeye's attention?

11:50:57 1 A. Yes.

11:50:57 2 Q. And is that company Insa?

11:51:06 3 A. Yes.

11:51:20 4 MR. RYAN: Let's take a short break. I don't have
11:51:23 5 a lot more to cover with you. I just want to go
11:51:26 6 through my notes.

11:51:28 7 (Brief Recess.)

12:04:24 8 VIDEO OPERATOR: We are back on the record at
12:04:27 9 12:04.

12:04:35 10 MR. BIAL: Before you start your questioning I
12:04:37 11 want to designate this attorneys eyes only until I have
12:04:42 12 an opportunity to review his testimony.

12:04:45 13 MR. RYAN: Which part?

12:04:47 14 MR. BIAL: I think we talked about potential
12:04:49 15 customers and more importantly the way Multiven
12:04:53 16 approaches identifying potential customers.

12:05:01 17 MR. RYAN: When are you going to let us know which
12:05:04 18 parts you want?

12:05:05 19 MR. BIAL: I'm going to stay within the four
12:05:07 20 corners of the protective order. I think Section 5.

12:05:17 21 MR. RYAN: All right. Well, the court reporter is
12:05:19 22 on an expedited basis, so it will be making his life a
12:05:25 23 lot easier if you make your decision.

12:05:28 24 MR. BIAL: As I say, we'll stay with the
12:05:30 25 protective other. I just don't want to end up having

12:05:31 1 the stuff in a filing before we have an opportunity to
12:05:33 2 review it to make sure there's not sensitive
12:05:35 3 information there.

12:05:40 4 BY MR. RYAN:

12:05:41 5 Q. Do you know somebody named Dawn who got
12:05:44 6 involved for a period of time with Multiven?

12:05:47 7 A. Yes.

12:05:47 8 Q. Who is that person?

12:05:50 9 A. Dawn Mirek. Is that who you are referring
12:05:53 10 to?

12:05:55 11 Q. I think so. Who is she?

12:05:57 12 A. She is a former employee of AOL and
12:06:05 13 considered pretty knowledgeable in IT and networking.

12:06:12 14 Q. When did you meet her?

12:06:19 15 A. Probably in 2006.

12:06:23 16 Q. Do you remember how you met her?

12:06:26 17 A. Met through a mutual friend.

12:06:30 18 Q. Did you introduce her to Mr. Adekeye?

12:06:32 19 A. Yes.

12:06:33 20 Q. Did she become a member of Multiven's
12:06:36 21 Advisory Board?

12:06:37 22 A. Yes, I think that was her title.

12:06:40 23 Q. Besides Dawn were there other members of the
12:06:43 24 Advisory Board?

12:06:47 25 A. Not to my recollection.

12:06:51 1 Q. Did Dawn meet Mr. Adekeye in person?

12:07:00 2 A. I don't know.

12:07:04 3 Q. Do you remember ever seeing them together
12:07:06 4 physically?

12:07:07 5 A. I don't recall, no. I don't believe so. No,
12:07:15 6 I don't recall seeing them together.

12:07:20 7 Q. You mentioned Mr. Wippich. Was he still at
12:07:25 8 Multiven when you left Multiven's board?

12:07:29 9 A. No.

12:07:31 10 Q. Do you remember approximately how long before
12:07:37 11 you left Multiven's board he left Multiven?

12:07:44 12 A. Maybe a year.

12:07:46 13 Q. Do you remember anything about the
12:07:47 14 circumstances of his departure from Multiven?

12:07:55 15 A. Can you be more specific?

12:07:56 16 Q. Do you remember why he left?

12:08:00 17 A. He wasn't making any sales.

12:08:04 18 Q. Did you have any discussions with Mr. Wippich
12:08:07 19 about why he was leaving Multiven?

12:08:12 20 A. No, not -- not that I recall.

12:08:18 21 Q. When you say he wasn't making any sales, how
12:08:20 22 did you know he wasn't making any sales?

12:08:24 23 A. Because, when we had the board meetings, we
12:08:27 24 would always ask, hey, do we have any sales? And there
12:08:31 25 were rarely any to report.

12:08:37 1 Q. Do you know, have you heard of a company
12:08:39 2 called Tour Pacific?

12:08:43 3 A. Name sounds familiar but I don't know -- is
12:08:47 4 that where Mark went? You ask the questions. Sorry.

12:08:55 5 Q. Very perceptive. When you decided to leave
12:09:00 6 the board, did you tell Mr. Adekeye in person or over
12:09:04 7 the phone, over Skype?

12:09:07 8 A. I think I sent an email.

12:09:11 9 Q. Do you remember what was said?

12:09:18 10 A. No. You know, basically I think I spend my
12:09:26 11 time in resources and efforts elsewhere on this.

12:09:32 12 Q. Do you remember if Mr. Adekeye reacted to you
12:09:36 13 saying you were leaving?

12:09:37 14 A. Do I remember what?

12:09:38 15 Q. That Mr. Adekeye reacted to you saying you
12:09:42 16 were going to leave?

12:09:43 17 A. I think he was somewhat ambivalent about it.

12:09:48 18 Q. Do you remember ever having any
12:09:50 19 communications with Mr. Adekeye about the fact that
12:09:56 20 some of the people that did work with Multiven used
12:10:01 21 aliases so that their employers wouldn't know they were
12:10:08 22 working with Multiven?

12:10:09 23 A. No.

12:10:10 24 Q. Do you remember an email handle
12:10:12 25 omar@Multiven.com? Does that ring a bell?

12:10:18 1 A. No.

12:10:20 2 Q. Do you remember a name umairbuddaboy?

12:10:28 3 A. That one sounds familiar. I actually, I
12:10:30 4 think that one I got an invitation to be on, linked in
12:10:35 5 with.

12:10:37 6 Q. Is that something recent or --

12:10:39 7 A. No, back when I was on the board.

12:10:44 8 Q. Do you remember if Umair went by a different
12:10:46 9 name when he worked at the Multiven so his employer
12:10:49 10 wouldn't know he was working with Multiven?

12:10:52 11 A. No. I don't know who he was. I didn't
12:10:55 12 accept the invitation to be on linked in. If that was
12:11:02 13 the same person. It was a name similar to that.

12:11:11 14 MR. RYAN: All right. For the time being I'm
12:11:13 15 suspending my questions. And see if counsel for
12:11:18 16 Multiven have any questions.

12:11:20 17 MR. BIAL: We just have a couple of questions.
12:11:23 18 Why don't we take a very quick break and I can sit up
12:11:28 19 over here.

12:11:29 20 (Discussion off the record.)

12:13:18 21 VIDEO OPERATOR: We are back on the record at
12:13:20 22 12:13.

12:13:22 23 EXAMINATION

12:13:23 24 BY MR. BIAL:

12:13:29 25 Q. I guess we are shortly afternoon. So, good

12:13:32 1 afternoon.

12:13:33 2 Mr. Gray, just a couple of questions I
12:13:35 3 would like to ask following up on some of your
12:13:38 4 testimony earlier. I just want to touch on your
12:13:41 5 relationship with Mr. Olson. Can you repeat again when
12:13:46 6 approximately Mr. Olson suggested that you might join
12:13:50 7 the board of Multiven?

12:13:53 8 A. I believe it was in 2005.

12:14:00 9 Q. How did you know Mr. Olson at that point in
12:14:03 10 time?

12:14:03 11 A. I had met him when I was stationed in
12:14:07 12 Singapore. And that was from -- I was in Singapore
12:14:10 13 from 2000 to 2002. And then, we maintained casual
12:14:15 14 contact throughout that time.

12:14:18 15 Q. What was Mr. Olson doing in Singapore in 2000
12:14:21 16 to 2002?

12:14:22 17 A. He was working for Cisco. And an
12:14:26 18 organization that they provide consulting services to
12:14:31 19 companies and organizations.

12:14:35 20 Q. Do you recall what his title was by any
12:14:37 21 chance?

12:14:38 22 A. I don't. Probably consultant.

12:14:43 23 Q. What was your opinion of Mr. Olson at that
12:14:45 24 time?

12:14:45 25 A. I really respected him.

12:14:48 1 Q. Did you respect him for his technical
12:14:50 2 capabilities?

12:14:51 3 A. I liked him as a person. I liked him in
12:14:54 4 terms of the way he approached problems and issues. I
12:14:57 5 enjoyed working with him and discussing things within
12:15:05 6 common business practices and ways to approach things.

12:15:08 7 Q. Did you have a business relationship with him
12:15:10 8 at that point in time 2000-2002?

12:15:13 9 A. Yes.

12:15:14 10 Q. And then, how did that relationship continue
12:15:17 11 after 2002?

12:15:18 12 A. Now, keep in mind, a business relationship in
12:15:21 13 the fact that we were working business, but it was, you
12:15:27 14 know, not -- he wasn't hired by me.

12:15:31 15 Q. Okay. You had discussions about business
12:15:33 16 with him?

12:15:34 17 A. Yes.

12:15:35 18 Q. About Cisco's business?

12:15:38 19 A. No. Really the service that he provided was
12:15:42 20 to provide knowledge and expertise about what the realm
12:15:47 21 of possibility is for incorporating information
12:15:52 22 technology solutions and to help solve programs. So,
12:15:55 23 it wasn't specifically Cisco directed.

12:15:58 24 Q. If Mr. Olson were engaged in a project, would
12:16:01 25 he provide specific technical recommendations about

12:16:04 1 what could be done with communications for that
12:16:06 2 project?

12:16:07 3 MR. RYAN: Objection. Lack of foundation. Calls
12:16:09 4 for speculation.

12:16:12 5 BY MR. BIAL:

12:16:12 6 Q. You can answer.

12:16:13 7 A. So, he would provide examples of commercial
12:16:19 8 best practices and solutions that had been done before
12:16:22 9 and what type of technology may be available to help
12:16:25 10 solve the problems that we were trying to deal with.

12:16:28 11 Q. And you thought he did a good job?

12:16:30 12 A. Yes.

12:16:31 13 Q. At the time that Multiven was recommended to
12:16:36 14 you in 2005, was the business relationship with Mr.
12:16:41 15 Olson the same as it had been previously?

12:16:44 16 A. No.

12:16:45 17 Q. Can you explain what the relationship was
12:16:47 18 like in 2005?

12:16:48 19 A. The business relationship with Mr. Olson, you
12:16:53 20 know, really terminated when I left Singapore. So,
12:16:56 21 that would have been in 2002. And maybe even sooner.
12:17:01 22 He may have left before I did.

12:17:05 23 So, in 2005, again, from the business
12:17:10 24 relationship and just being part of an Xpac society
12:17:15 25 within Singapore we developed somewhat of a

12:17:18 1 friendship. So, that's how I would say that
12:17:22 2 friendship was in 2005.

12:17:26 3 Q. Had anything happened between 2000 and 2002,
12:17:30 4 2005 to change your opinion about Mr. Olson?

12:17:33 5 A. No.

12:17:37 6 Q. You testified earlier that you had an
12:17:40 7 interest in Multiven for one reason that it might be,
12:17:44 8 "a neat learning experience"?

12:17:49 9 A. Yes.

12:17:49 10 Q. And I believe, please correct me if I wrong,
12:17:51 11 your testimony was, you were going to be going into
12:17:54 12 retirement and you were searching an opportunity to
12:17:57 13 start private business at that point?

12:17:59 14 A. Yes.

12:18:05 15 Q. What did Mr. Olson tell you about Multiven
12:18:07 16 that captured your interest?

12:18:11 17 A. He said it was, you know, a new technology, a
12:18:21 18 new approach to solutions, and that Peter was one of
12:18:27 19 the best technicians experts on network systems that he
12:18:30 20 had ever known.

12:18:37 21 Q. Any reason to doubt what he was telling you?

12:18:40 22 A. No.

12:18:42 23 Q. When you say it was a new approach to
12:18:44 24 solutions, are you talking about the potential business
12:18:48 25 to service Cisco hardware and software?

12:18:54 1 A. At that point we never even talked about
12:18:56 2 Cisco. It was Multiven, which stands for multi
12:19:03 3 vendors. And I had never even really made a
12:19:10 4 correlation or anything to the fact that it would
12:19:13 5 relate to Cisco stuff. It was the fact that what
12:19:19 6 Multiven was offering as a value proposition was, they
12:19:22 7 could come in and offer solutions that involved
12:19:28 8 multiple vendors, as opposed to a single type of
12:19:31 9 company.

12:19:33 10 Q. So, the idea of being kind of a one-stop shop
12:19:37 11 for servicing your equipment?

12:19:39 12 A. Yes.

12:19:39 13 Q. That was the long range goal, as explained to
12:19:42 14 you by Multiven?

12:19:44 15 A. Yes.

12:19:45 16 Q. What do you think of that business plan given
12:19:48 17 your experience up to that point in time?

12:19:50 18 A. I think it seemed like a good approach. You
12:19:56 19 know, wasn't familiar with the market, not familiar
12:20:00 20 with the technology. But, you know, I appreciate new
12:20:05 21 ideas and I appreciate people with a passion and an
12:20:07 22 entrepreneurial spirit that try to make a difference
12:20:12 23 with things.

12:20:13 24 Q. Were you aware of any other, I'll call them
12:20:15 25 market entrants, that were pursuing a similar

12:20:21 1 opportunity that Multiven had been doing?

12:20:24 2 A. No.

12:20:24 3 Q. So, this was at least in your opinion at the
12:20:28 4 time a groundbreaking business idea?

12:20:30 5 A. Yes.

12:20:43 6 Q. With regard to Multiven's financials, I just
12:20:46 7 want to touch on a couple things I think you mentioned.
12:20:49 8 But before I do that, let me ask you a couple questions
12:20:53 9 about startups.

12:20:56 10 Were you familiar with startups at the
12:20:57 11 time you were looking at Multiven?

12:20:59 12 A. No.

12:21:00 13 Q. Did you have any notion as to what a startup
12:21:02 14 was?

12:21:02 15 A. No.

12:21:04 16 Q. Any thoughts that a startup would be a large
12:21:06 17 company?

12:21:08 18 A. A large company? No.

12:21:10 19 Q. Startups usually are a couple of employees?

12:21:14 20 A. Absolutely. I think of them as starting out
12:21:16 21 of a garage.

12:21:17 22 Q. So, even large companies like Google, Cisco,
12:21:22 23 Apple, all these started or at least -- started in a
12:21:27 24 garage somewhere?

12:21:28 25 MR. RYAN: Objection. Lack of foundation. Lack

12:21:30 1 of personal knowledge.

12:21:34 2 THE WITNESS: I have heard of a lot of success
12:21:36 3 stories with these large corporations that you find
12:21:40 4 people were, started as working out of a garage from HP
12:21:43 5 to Google to other companies.

12:21:45 6 BY MR. BIAL:

12:21:46 7 Q. Would you have thought it unusual for an
12:21:48 8 employee as a startup to wear more than one hat, for
12:21:54 9 example, both a technical role, a marketing role, some
12:21:58 10 other leadership role?

12:21:59 11 A. No.

12:22:09 12 Q. To the extent there are revenue projections
12:22:13 13 for a startup, if those are based on contracts with new
12:22:18 14 customers, and the company is unable to secure those
12:22:24 15 contracts, would that be a factor in potentially having
12:22:29 16 some difficulty with success in the company? Do you
12:22:34 17 understand my question?

12:22:35 18 A. I think the way I understand your question
12:22:36 19 is, if you're a business, and you don't sell anything,
12:22:39 20 will that impact your business? And I would say, yes.
12:22:48 21 Is that --

12:22:49 22 Q. Yes, actually, it wasn't supposed to be a
12:22:52 23 complicated question. It was actually the way I asked
12:22:54 24 it. But you answered it.

12:22:56 25 With regard to Multiven, if you can

12:23:00 1 recall, what was the objective for the company in its
12:23:05 2 early stages, as far as trying to get customers?

12:23:11 3 A. Well, the strategy changed a couple along the
12:23:16 4 way, the play. Initially it's just trying to find an
12:23:22 5 opportunity to get in the door, to have somebody that
12:23:25 6 would take a chance, that would, you could put on your
12:23:30 7 resume to be able to use to open other doors. So, as
12:23:37 8 we say in the Navy, any port in the storm. You needed
12:23:42 9 something to get going.

12:23:48 10 Q. And if that port is foreclosed to you, for
12:23:54 11 whatever reason, does that make the journey more
12:23:56 12 difficult?

12:23:57 13 A. It can, depending on which way the storm is
12:23:59 14 going.

12:24:00 15 MR. RYAN: Objection. Vague and ambiguous. Calls
12:24:02 16 for speculation.

12:24:05 17 MR. BIAL: I like the analogy.

12:24:09 18 With a regard specifically to Multiven, was
12:24:12 19 securing contracts with new clients an important
12:24:15 20 part of the business?

12:24:16 21 A. Yes.

12:24:15 22 BY MR. BIAL:

12:24:18 23 Q. And if Multiven were unable to secure those
12:24:21 24 contracts, would that have been an impediment to
12:24:23 25 success?

12:24:24 1 A. Yes.

12:24:25 2 Q. You mentioned earlier that participants in
12:24:33 3 the industry were concerned about upsetting Cisco.

12:24:37 4 MR. RYAN: Objection. Mischaracterizes the
12:24:39 5 testimony.

12:24:44 6 BY MR. BIAL:

12:24:45 7 Q. Do you recall what reference I'm talking
12:24:46 8 about here?

12:24:47 9 A. I do.

12:24:48 10 Q. I just want to get a little bit of
12:24:50 11 understanding what you meant by that, when you say
12:24:52 12 upsetting Cisco. Are we talking about current
12:24:56 13 customers of Cisco, potential customers of Cisco?

12:25:01 14 A. Yes. As we talked about earlier, you know,
12:25:09 15 the businesses rely on their networks. It's a critical
12:25:13 16 part of them being able to provide their service and
12:25:17 17 apply.

12:25:21 18 And Cisco has a large share of the
12:25:24 19 market that impacts these networks. And they are
12:25:32 20 providing a service that the customers are reliant on
12:25:36 21 to play.

12:25:38 22 So, when you have that, you want to be
12:25:40 23 very careful not to disturb that, because that can
12:25:44 24 have an impact on your business.

12:25:51 25 Q. And the nature of the perceived fear of Cisco

12:25:54 1 would be, if you did upset them, you may not get the
12:25:58 2 continued access to their services?

12:26:01 3 MR. RYAN: Objection. Calls for speculation.
12:26:02 4 Mischaracterizes the testimony.

12:26:05 5 Q. Do you understand my question?

12:26:07 6 A. I understand your question. I think that
12:26:16 7 from the perspective within Multiven, as we were
12:26:20 8 looking at what was maybe preventing the opportunity
12:26:23 9 for sales, that people didn't want to take the risk of
12:26:31 10 not being able to have Cisco in the event that they
12:26:34 11 needed them.

12:26:36 12 BY MR. BIAL:

12:26:37 13 Q. Were these conversations with customers at
12:26:40 14 the time trying to get new business?

12:26:44 15 A. This is what I got from those people that
12:26:46 16 were out trying to sell the information. I didn't get
12:26:49 17 that firsthand from the customers.

12:26:51 18 Q. People from Multiven reporting back as
12:26:52 19 somebody --

12:26:54 20 A. Yes.

12:26:54 21 Q. -- that when they were on the sales visits,
12:26:56 22 they were getting some resistance from customers
12:26:59 23 because of Cisco's dominance.

12:27:02 24 MR. POTEPAN: Objection. Mischaracterizes the
12:27:03 25 testimony.

12:27:04 1 MR. BIAL: I'm asking the question. I'm not
12:27:06 2 asking about his testimony.

12:27:07 3 You can answer the question.

12:27:09 4 THE WITNESS: Yes. The onus really on Multiven
12:27:16 5 is, they have something that is working. They are
12:27:19 6 comfortable with it. You're coming in and offering me
12:27:23 7 something new. I need to understand the value
12:27:26 8 proposition and I know that I need to feel comfortable
12:27:29 9 it's not going to impact my ability to perform my
12:27:32 10 primary business as my primary mission as a business.
12:27:37 11 It's a valid concern for a business.

12:27:40 12 BY MR. BIAL:

12:27:40 13 Q. Sure. Some of the things they would think
12:27:42 14 about, were what you think I pointed to earlier,
12:27:45 15 security concerns, for example. I believe Mr. Ryan
12:27:49 16 questioned you on this. Security might be one of the
12:27:53 17 things that a customer might be keen to make sure that
12:27:55 18 was preserved after new relationship?

12:27:57 19 A. Security, response time, reliability,
12:27:59 20 dependability or obviously key performance parameters
12:28:07 21 that business would be concerned about in running their
12:28:10 22 networks.

12:28:11 23 Q. In your experience did companies always not,
12:28:16 24 any company, not just Multiven, whatever companies in
12:28:19 25 the industry, did they always live up to your

12:28:22 1 expectations?

12:28:25 2 A. In the IT industry?

12:28:27 3 Q. Right. Let's say service of networking
12:28:31 4 equipment.

12:28:32 5 A. You know, I'm not a good one to ask because
12:28:35 6 I'm not one that has been responsible or relying on the
12:28:38 7 networks to play. I know when a network is not
12:28:42 8 working, and I'm trying to do my job, it's frustrating.
12:28:50 9 But that's not a matter of -- I guess, as a customer,
12:28:55 10 my expectation is that network is always going to work.

12:29:00 11 Q. If there were specific problems about
12:29:02 12 service, you wouldn't be the person that would deal
12:29:05 13 directly with those issues?

12:29:07 14 A. That's correct.

12:29:07 15 Q. With regard to a value proposition, in
12:29:09 16 addition to providing services, is price a factor?

12:29:14 17 A. Yes.

12:29:19 18 Q. Would you be inclined to consider less
12:29:21 19 expensive alternatives from an upstart company?

12:29:26 20 A. Absolutely.

12:29:29 21 Q. Had you in your business experience made
12:29:33 22 decisions based on price?

12:29:34 23 A. Yes.

12:29:36 24 Q. Have you made decisions made on price with an
12:29:39 25 upstart trying to get new business, if you can recall?

12:29:50 1 A. Yes. I mean I'll take -- can take this from
12:29:53 2 a personal side or from my government side. One of the
12:29:57 3 things that we try to do in government contracting is
12:29:59 4 to promote small businesses and entrepreneurs.

12:30:04 5 It's mandated in the Federal
12:30:06 6 Acquisition Regulations that you have to do certain
12:30:09 7 set sides for small businesses, because it's
12:30:13 8 perceived as a way to help stimulate the economy,
12:30:16 9 create new ideas and promote the American way of life
12:30:20 10 to keep small businesses up and running.

12:30:24 11 So, yes, I mean I think it's a good
12:30:28 12 idea. If you don't, if small businesses don't think
12:30:31 13 they have an opportunity to bring new and innovative
12:30:34 14 ideas, will stifle the American ingenuity.

12:30:42 15 Q. Have you ever heard of SMARTnet?

12:30:45 16 A. Yes.

12:30:46 17 Q. Are you aware it's a Cisco service?

12:30:52 18 A. I guess, yes. I'm aware of it. As you tell
12:30:56 19 me more, I'll probably -- I know that we actually have
12:31:02 20 talked about that. I have heard about it before.

12:31:05 21 Q. Sure. So, if Cisco offers a service to
12:31:13 22 update its software, you can use the SMARTnet which
12:31:17 23 would be their brand as a fix it software.

12:31:24 24 A. Okay.

12:31:25 25 Q. You are not familiar with it in the context

12:31:26 1 for software fixes?

12:31:28 2 A. No.

12:31:55 3 Q. At the time you joined Multiven's board, did
12:31:59 4 you believe it was a real company?

12:32:01 5 A. Yes.

12:32:02 6 Q. Did you think it was a sham company?

12:32:04 7 A. No.

12:32:07 8 Q. Do you think that Mr. Olson would recommend
12:32:09 9 you joining the board of a sham company?

12:32:12 10 A. No.

12:32:26 11 Q. What was your relationship with Cisco at the
12:32:29 12 time you were on Multiven's board of directors?

12:32:41 13 A. I didn't have a specific relationship with
12:32:43 14 him.

12:32:46 15 Q. You were still in touch with Mr. Olson
12:32:49 16 throughout the time you were on the board of directors?

12:32:52 17 A. Yes.

12:33:28 18 Q. Had Ms. Dekka shared more financial
12:33:31 19 information with you during the period that you were a
12:33:35 20 board member, would that have impacted your decision
12:33:38 21 you think whether to leave the board of directors?

12:33:41 22 A. It would have been one less thing to cause me
12:33:47 23 concern, if I felt more comfortable with the financial
12:33:50 24 situation.

12:34:13 25 Q. You mentioned that the Secret Service

12:34:14 1 contacted you. Do you recall that?

12:34:18 2 A. Yes.

12:34:20 3 Q. I think you said that it was related to some
12:34:23 4 information that Cisco had asked about?

12:34:25 5 A. Yes.

12:34:26 6 Q. So, the Secret Service agent specifically
12:34:29 7 mentioned that Cisco had provided some information to
12:34:32 8 the Secret Service?

12:34:36 9 MR. RYAN: Objection. Lack of foundation.

12:34:43 10 THE WITNESS: In the discussion with the Secret
12:34:44 11 Service that Cisco's name came up and -- but I can't
12:34:55 12 say for sure that they said that Cisco provided them
12:34:58 13 information.

12:35:08 14 BY MR. BIAL:

12:35:08 15 Q. Do you recall the name of the Secret Service
12:35:11 16 officer that you spoke to?

12:35:13 17 A. No, I don't.

12:35:14 18 Q. Do you know what it was Kati Kurtz?

12:35:17 19 A. That name sounds familiar. I know it was a
12:35:20 20 female.

12:35:20 21 Q. When did that conversation occur. The more
12:35:26 22 specificity with that the best on this question.

12:35:28 23 A. I'm sorry. I might get close by saying, a
12:35:32 24 year ago.

12:35:37 25 Q. Do you have any documents or anything that

12:35:39 1 might help us pin down when that communication took
12:35:43 2 place?

12:35:55 3 A. I'm trying to think if maybe I have a
12:35:57 4 calendar entry or something perhaps.

12:36:03 5 Q. Let me suggest, if you have that information,
12:36:05 6 we would like to get it, avoid having to go through
12:36:11 7 formal process. But if you have it, would you be happy
12:36:12 8 to volunteer --

12:36:14 9 A. Yeah, more than happy to provide that. I
12:36:16 10 just don't know where I would have documented it, you
12:36:20 11 know. It came as a voice mail. I mean -- yes. And
12:36:26 12 then I actually -- it was actually good because I
12:36:32 13 called back to make sure that the people were answering
12:36:34 14 the phone at least identified themselves as Secret
12:36:36 15 Service, because I couldn't understand why the Secret
12:36:39 16 Service would be calling me.

12:36:46 17 Q. Do you still believe the multi-vendor
12:36:49 18 approach to servicing equipment is a good idea?

12:36:54 19 A. Based on my understanding of it, I think it
12:36:56 20 does have a lot of merit.

12:37:26 21 MR. BIAL: Mr. Gray, I would like to thank you for
12:37:28 22 coming in for your deposition. We don't have any
12:37:30 23 further questions at this time. If we need to follow
12:37:32 24 up with you later, I will make arrangements to do so.

12:37:35 25 MR. RYAN: I have a couple of follow up. Real

12:37:37 1 quick.

12:37:37 2 EXAMINATION

12:37:38 3 BY MR. RYAN:

12:37:39 4 Q. You mentioned that at the time you joined the
12:37:41 5 board, you didn't think Multiven was a sham company?

12:37:45 6 A. Correct.

12:37:46 7 Q. At some point did you change your view?

12:37:58 8 A. There were points where I would have doubts,
12:38:01 9 but I was never completely -- completely convinced that
12:38:07 10 it was a sham.

12:38:10 11 Q. So, at some point you had doubts about
12:38:13 12 whether it was a legitimate company, correct?

12:38:14 13 A. Yes.

12:38:17 14 Q. You mentioned pricing could be a factor in
12:38:21 15 deciding whether somebody is going to contract --

12:38:24 16 A. Yes.

12:38:24 17 Q. Do you know what life cycle pricing is?

12:38:29 18 A. I have an idea.

12:38:32 19 Q. What about total cost of ownership?

12:38:34 20 A. Very familiar with that.

12:38:40 21 Q. The purchases that you have been involved in,
12:38:43 22 is that concept something very important to making a
12:38:45 23 decision whether to enter into a contract with a
12:38:48 24 vendor?

12:38:49 25 A. It's become a lot more important over the

12:38:52 1 last couple of years. And I'm specifically working on
12:38:57 2 that for DOD to help improve that decision making.

12:39:01 3 Q. What is total cost of ownership?

12:39:07 4 A. The way that the Department of Defense
12:39:10 5 calculates it is the total of all cost associated with
12:39:16 6 acquiring, supporting and disposing of a piece of
12:39:21 7 equipment.

12:39:22 8 Q. That would include servicing it during its
12:39:24 9 lifetime?

12:39:25 10 A. Yes.

12:39:26 11 MR. RYAN: No further questions. Thank you for
12:39:28 12 your time.

12:39:30 13 VIDEO OPERATOR: This concludes the deposition at
12:39:33 14 12:39.

15 (At 12:39 P.M., the deposition
16 proceedings adjourned.)

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BASIL GRAY

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